

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED MENTAL HEALTH AND  
DISABILITY SERVICES STUDY  
COMMITTEE BILL)

**A BILL FOR**

1 An Act relating to terminology changes in Iowa Code references  
2 to mental retardation and adult day care.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DRAFT

DIVISION I

INTELLECTUAL DISABILITY

Section 1. Section 4.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "*Intellectual disability*" means a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society, and, if a diagnosis is required, "*intellectual disability*" means a diagnosis of mental retardation as defined in the diagnostic and statistical manual of mental disorders, fourth edition, published by the American psychiatric association.

Sec. 2. Section 4.1, subsection 21A, Code 2011, is amended to read as follows:

21A. *Persons with mental illness.* The words "*persons with mental illness*" include persons with psychosis, persons who are severely depressed, and persons with any type of mental disease or mental disorder, except that mental illness does not refer to ~~mental retardation as defined in section 222.2~~ intellectual disability, or to insanity, diminished responsibility, or mental incompetency as defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules. A person who is hospitalized or detained for treatment of mental illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

Sec. 3. Section 8A.311, subsection 16, Code Supplement 2011, is amended to read as follows:

16. A state agency shall make every effort to purchase those products produced for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with ~~mental retardation~~ an intellectual disability or other developmental disabilities or mental illness if the products meet the

1 required specifications.

2 Sec. 4. Section 23A.2, subsection 10, paragraph 1,  
3 subparagraph (4), Code 2011, is amended to read as follows:

4 (4) Nothing in this paragraph shall be construed to  
5 prohibit a state resource center from providing a service a  
6 resident needs for compliance with accreditation standards  
7 for intermediate care facilities for persons with ~~mental~~  
8 ~~retardation~~ intellectual disability.

9 Sec. 5. Section 48A.2, subsection 3, Code 2011, is amended  
10 to read as follows:

11 3. "*Person who is incompetent to vote*" means a person  
12 ~~described in section 222.2, subsection 5, with an intellectual~~  
13 disability who has been found to lack the mental capacity  
14 to vote in a proceeding held pursuant to section 222.31 or  
15 633.556.

16 Sec. 6. Section 126.16, subsection 2, Code 2011, is amended  
17 to read as follows:

18 2. For the purpose of this chapter, advertising is false if  
19 it represents a drug, device, or cosmetic to have any effect  
20 in the diagnosis, prevention, or treatment of arthritis,  
21 blood disorders, bone or joint diseases, kidney diseases or  
22 disorders, cancer, diabetes, gall bladder disease or disorders,  
23 heart and vascular disease, high blood pressure, diseases or  
24 disorders of the ear, mental disease or ~~mental retardation~~  
25 intellectual disability, degenerative neurological diseases,  
26 paralysis, prostate gland disorders, conditions of the scalp  
27 affecting hair loss, baldness, endocrine disorders, sexual  
28 impotence, tumors, venereal diseases, varicose ulcers,  
29 breast enlargement, purifying blood, metabolic disorders,  
30 immune system disorders or conditions affecting the immune  
31 system, extension of life expectancy, stress and tension,  
32 brain stimulation or performance, the body's natural defense  
33 mechanisms, blood flow, and depression. However, advertising  
34 not in violation of subsection 1 is not false under this  
35 subsection if it is disseminated only to members of the

1 medical, dental, or veterinary professions, or appears only  
2 in the scientific periodicals of these professions, or is  
3 disseminated only for the purpose of public health education by  
4 persons not commercially interested, directly or indirectly,  
5 in the sale of such drugs or devices. However, if the board  
6 determines that an advance in medical science has made any  
7 type of self-medication safe as to any of the diseases named  
8 in this subsection, the board shall by rule authorize the  
9 advertising of drugs having curative or therapeutic effect for  
10 such disease, subject to the conditions and restrictions the  
11 board deems necessary in the interests of the public health.  
12 However, this subsection does not indicate that self-medication  
13 for diseases other than those named in this subsection is safe  
14 and efficacious.

15 Sec. 7. Section 135.63, subsection 1, Code 2011, is amended  
16 to read as follows:

17 1. A new institutional health service or changed  
18 institutional health service shall not be offered or developed  
19 in this state without prior application to the department  
20 for and receipt of a certificate of need, pursuant to this  
21 division. The application shall be made upon forms furnished  
22 or prescribed by the department and shall contain such  
23 information as the department may require under this division.  
24 The application shall be accompanied by a fee equivalent  
25 to three-tenths of one percent of the anticipated cost of  
26 the project with a minimum fee of six hundred dollars and a  
27 maximum fee of twenty-one thousand dollars. The fee shall be  
28 remitted by the department to the treasurer of state, who shall  
29 place it in the general fund of the state. If an application  
30 is voluntarily withdrawn within thirty calendar days after  
31 submission, seventy-five percent of the application fee shall  
32 be refunded; if the application is voluntarily withdrawn more  
33 than thirty but within sixty days after submission, fifty  
34 percent of the application fee shall be refunded; if the  
35 application is withdrawn voluntarily more than sixty days

1 after submission, twenty-five percent of the application fee  
2 shall be refunded. Notwithstanding the required payment of  
3 an application fee under this subsection, an applicant for a  
4 new institutional health service or a changed institutional  
5 health service offered or developed by an intermediate care  
6 facility for persons with ~~mental retardation~~ an intellectual  
7 disability or an intermediate care facility for persons with  
8 mental illness as defined pursuant to section 135C.1 is exempt  
9 from payment of the application fee.

10 Sec. 8. Section 135.63, subsection 2, paragraphs f and p,  
11 Code 2011, are amended to read as follows:

12 *f.* A residential care facility, as defined in section  
13 135C.1, including a residential care facility for persons with  
14 ~~mental retardation~~ an intellectual disability, notwithstanding  
15 any provision in this division to the contrary.

16 *p.* The conversion of an existing number of beds by an  
17 intermediate care facility for persons with ~~mental retardation~~  
18 an intellectual disability to a smaller facility environment,  
19 including but not limited to a community-based environment  
20 which does not result in an increased number of beds,  
21 notwithstanding any provision in this division to the contrary,  
22 including subsection 4, if all of the following conditions  
23 exist:

24 (1) The intermediate care facility for persons with ~~mental~~  
25 ~~retardation~~ an intellectual disability reports the number  
26 and type of beds to be converted on a form prescribed by the  
27 department at least thirty days before the conversion.

28 (2) The intermediate care facility for persons with ~~mental~~  
29 ~~retardation~~ an intellectual disability reports the conversion  
30 of beds on its next annual report to the department.

31 Sec. 9. Section 135.63, subsection 4, unnumbered paragraph  
32 1, Code 2011, is amended to read as follows:

33 A copy of the application shall be sent to the department  
34 of human services at the time the application is submitted  
35 to the Iowa department of public health. The department

1 shall not process applications for and the council shall not  
2 consider a new or changed institutional health service for an  
3 intermediate care facility for persons with ~~mental retardation~~  
4 an intellectual disability unless both of the following  
5 conditions are met:

6 Sec. 10. Section 135.63, subsection 4, paragraph a, Code  
7 2011, is amended to read as follows:

8 a. The new or changed beds shall not result in an  
9 increase in the total number of medical assistance certified  
10 intermediate care facility beds for persons with ~~mental~~  
11 ~~retardation~~ an intellectual disability in the state, exclusive  
12 of those beds at the state resource centers or other state  
13 institutions, beyond one thousand six hundred thirty-six beds.

14 Sec. 11. Section 135C.1, subsections 6, 9, and 13, Code  
15 2011, are amended to read as follows:

16 6. "*Health care facility*" or "*facility*" means a residential  
17 care facility, a nursing facility, an intermediate care  
18 facility for persons with mental illness, or an intermediate  
19 care facility for persons with ~~mental retardation~~ an  
20 intellectual disability.

21 9. "*Intermediate care facility for persons with ~~mental~~*  
22 *~~retardation~~ an intellectual disability*" means an institution  
23 or distinct part of an institution with a primary purpose  
24 to provide health or rehabilitative services to three or  
25 more individuals, who primarily have ~~mental retardation~~ an  
26 intellectual disability or a related condition and who are  
27 not related to the administrator or owner within the third  
28 degree of consanguinity, and which meets the requirements  
29 of this chapter and federal standards for intermediate care  
30 facilities for persons with ~~mental retardation~~ an intellectual  
31 disability established pursuant to the federal Social Security  
32 Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d, which are  
33 contained in 42 C.F.R. pt. 483, subpt. D, § 410 - 480.

34 13. "*Nursing facility*" means an institution or a distinct  
35 part of an institution housing three or more individuals not

1 related to the administrator or owner within the third degree  
2 of consanguinity, which is primarily engaged in providing  
3 health-related care and services, including rehabilitative  
4 services, but which is not engaged primarily in providing  
5 treatment or care for mental illness or ~~mental-retardation~~ an  
6 intellectual disability, for a period exceeding twenty-four  
7 consecutive hours for individuals who, because of a mental or  
8 physical condition, require nursing care and other services in  
9 addition to room and board.

10 Sec. 12. Section 135C.2, subsection 3, paragraphs b, c, and  
11 d, Code 2011, are amended to read as follows:

12 b. The department may also establish by administrative  
13 rule special classifications within the residential care  
14 facility, intermediate care facility for persons with mental  
15 illness, intermediate care facility for persons with ~~mental-~~  
16 ~~retardation~~ an intellectual disability, or nursing facility  
17 categories, for facilities intended to serve individuals who  
18 have special health care problems or conditions in common.  
19 Rules establishing a special classification shall define the  
20 problem or condition to which the special classification is  
21 relevant and establish requirements for an approved program of  
22 care commensurate with the problem or condition. The rules  
23 may grant special variances or considerations to facilities  
24 licensed within the special classification.

25 c. The rules adopted for intermediate care facilities for  
26 persons with ~~mental-retardation~~ an intellectual disability  
27 shall be consistent with, but no more restrictive than, the  
28 federal standards for intermediate care facilities for persons  
29 with ~~mental-retardation~~ an intellectual disability established  
30 pursuant to the federal Social Security Act, § 1905(c)(d),  
31 as codified in 42 U.S.C. § 1396d, in effect on January 1,  
32 1989. However, in order for an intermediate care facility for  
33 persons with ~~mental-retardation~~ an intellectual disability  
34 to be licensed, the state fire marshal must certify to the  
35 department that the facility meets the applicable provisions

1 of the rules adopted for such facilities by the state fire  
2 marshal. The state fire marshal's rules shall be based  
3 upon such a facility's compliance with either the provisions  
4 applicable to health care occupancies or residential board and  
5 care occupancies of the life safety code of the national fire  
6 protection association, 2000 edition. The department shall  
7 adopt additional rules for intermediate care facilities for  
8 persons with ~~mental retardation~~ an intellectual disability  
9 pursuant to section 135C.14, subsection 8.

10 d. Notwithstanding the limitations set out in this  
11 subsection regarding rules for intermediate care facilities for  
12 persons with ~~mental retardation~~ an intellectual disability,  
13 the department shall consider the federal interpretive  
14 guidelines issued by the federal centers for Medicare and  
15 Medicaid services when interpreting the department's rules  
16 for intermediate care facilities for persons with ~~mental~~  
17 ~~retardation~~ an intellectual disability. This use of the  
18 guidelines is not subject to the rulemaking provisions of  
19 sections 17A.4 and 17A.5, but the guidelines shall be published  
20 in the Iowa administrative bulletin and the Iowa administrative  
21 code.

22 Sec. 13. Section 135C.2, subsection 5, unnumbered paragraph  
23 1, Code 2011, is amended to read as follows:

24 The department shall establish a special classification  
25 within the residential care facility category in order  
26 to foster the development of residential care facilities  
27 which serve persons with ~~mental retardation~~ an intellectual  
28 disability, chronic mental illness, a developmental disability,  
29 or brain injury, as described under section 225C.26, and which  
30 contain five or fewer residents. A facility within the special  
31 classification established pursuant to this subsection is  
32 exempt from the requirements of section 135.63. The department  
33 shall adopt rules which are consistent with rules previously  
34 developed for the waiver demonstration project pursuant to 1986  
35 Iowa Acts, chapter 1246, section 206, and which include all of



1 the following provisions:

2 Sec. 14. Section 135C.2, subsection 5, paragraphs a and f,  
3 Code 2011, are amended to read as follows:

4 a. A facility provider under the special classification must  
5 comply with rules adopted by the department for the special  
6 classification. However, a facility provider which has been  
7 accredited by the accreditation council for services to persons  
8 with ~~mental retardation~~ an intellectual disability and other  
9 developmental disabilities shall be deemed to be in compliance  
10 with the rules adopted by the department.

11 f. The facilities licensed under this subsection shall be  
12 eligible for funding utilized by other licensed residential  
13 care facilities for persons with ~~mental retardation~~ an  
14 intellectual disability, or licensed residential care  
15 facilities for persons with mental illness, including but not  
16 limited to funding under or from the federal social services  
17 block grant, the state supplementary assistance program, state  
18 mental health and developmental disabilities services funds,  
19 and county funding provisions.

20 Sec. 15. Section 135C.6, subsection 8, paragraphs a and b,  
21 Code 2011, are amended to read as follows:

22 a. Residential programs providing care to not more than  
23 four individuals and receiving moneys appropriated to the  
24 department of human services under provisions of a federally  
25 approved home and community-based services waiver for persons  
26 with intellectual disabilities or other medical assistance  
27 program under chapter 249A. In approving a residential program  
28 under this paragraph, the department of human services shall  
29 consider the geographic location of the program so as to avoid  
30 an overconcentration of such programs in an area. In order  
31 to be approved under this paragraph, a residential program  
32 shall not be required to involve the conversion of a licensed  
33 residential care facility for persons with ~~mental retardation~~  
34 an intellectual disability.

35 b. Not more than forty residential care facilities for

1 persons with ~~mental-retardation~~ an intellectual disability  
2 that are licensed to serve not more than five individuals may  
3 be authorized by the department of human services to convert  
4 to operation as a residential program under the provisions  
5 of a medical assistance home and community-based services  
6 waiver for persons with intellectual disabilities. A converted  
7 residential program operating under this paragraph is subject  
8 to the conditions stated in paragraph "a" except that the  
9 program shall not serve more than five individuals.

10 Sec. 16. Section 135C.6, subsection 9, Code 2011, is amended  
11 to read as follows:

12 9. Contingent upon the department of human services  
13 receiving federal approval, a residential program which  
14 serves not more than eight individuals and is licensed as an  
15 intermediate care facility for persons with ~~mental-retardation~~  
16 an intellectual disability may surrender the facility license  
17 and continue to operate under a federally approved medical  
18 assistance home and community-based services waiver for persons  
19 with intellectual disabilities, if the department of human  
20 services has approved a plan submitted by the residential  
21 program.

22 Sec. 17. Section 135C.23, subsection 2, paragraph b, Code  
23 2011, is amended to read as follows:

24 b. This section does not prohibit the admission of a  
25 patient with a history of dangerous or disturbing behavior  
26 to an intermediate care facility for persons with mental  
27 illness, intermediate care facility for persons with ~~mental~~  
28 ~~retardation~~ an intellectual disability, nursing facility, or  
29 county care facility when the intermediate care facility for  
30 persons with mental illness, intermediate care facility for  
31 persons with ~~mental-retardation~~ an intellectual disability,  
32 nursing facility, or county care facility has a program which  
33 has received prior approval from the department to properly  
34 care for and manage the patient. An intermediate care  
35 facility for persons with mental illness, intermediate care

1 facility for persons with ~~mental retardation~~ an intellectual  
2 disability, nursing facility, or county care facility is  
3 required to transfer or discharge a resident with dangerous or  
4 disturbing behavior when the intermediate care facility for  
5 persons with mental illness, intermediate care facility for  
6 persons with ~~mental retardation~~ an intellectual disability,  
7 nursing facility, or county care facility cannot control the  
8 resident's dangerous or disturbing behavior. The department,  
9 in coordination with the state mental health and disability  
10 services commission created in section 225C.5, shall adopt  
11 rules pursuant to chapter 17A for programs to be required  
12 in intermediate care facilities for persons with mental  
13 illness, intermediate care facilities for persons with ~~mental~~  
14 ~~retardation~~ an intellectual disability, nursing facilities, and  
15 county care facilities that admit patients or have residents  
16 with histories of dangerous or disturbing behavior.

17 Sec. 18. Section 135C.25, subsection 1, Code 2011, is  
18 amended to read as follows:

19 1. Each health care facility shall have a resident advocate  
20 committee whose members shall be appointed by the director  
21 of the department on aging or the director's designee. A  
22 person shall not be appointed a member of a resident advocate  
23 committee for a health care facility unless the person is a  
24 resident of the service area where the facility is located.  
25 The resident advocate committee for any facility caring  
26 primarily for persons with mental illness, ~~mental retardation~~  
27 an intellectual disability, or a developmental disability shall  
28 only be appointed after consultation with the administrator  
29 of the division of mental health and disability services of  
30 the department of human services on the proposed appointments.  
31 Recommendations to the director or the director's designee for  
32 membership on resident advocate committees are encouraged from  
33 any agency, organization, or individual. The administrator of  
34 the facility shall not be appointed to the resident advocate  
35 committee and shall not be present at committee meetings except

1 upon request of the committee.

2 Sec. 19. Section 155.1, subsection 3, Code 2011, is amended  
3 to read as follows:

4 3. "*Nursing home*" means an institution or facility, or  
5 part of an institution or facility, whether proprietary or  
6 nonprofit, licensed as a nursing facility, but not including an  
7 intermediate care facility for persons with ~~mental retardation~~  
8 an intellectual disability or an intermediate care facility  
9 for persons with mental illness, defined as such for licensing  
10 purposes under state law or administrative rule adopted  
11 pursuant to section 135C.2, including but not limited to, a  
12 nursing home owned or administered by the federal or state  
13 government or an agency or political subdivision of government.

14 Sec. 20. Section 217.1, Code 2011, is amended to read as  
15 follows:

16 **217.1 Programs of department.**

17 There is established a department of human services to  
18 administer programs designed to improve the well-being  
19 and productivity of the people of the state of Iowa. The  
20 department shall concern itself with the problems of  
21 human behavior, adjustment, and daily living through the  
22 administration of programs of family, child, and adult  
23 welfare, economic assistance including costs of medical care,  
24 rehabilitation toward self-care and support, delinquency  
25 prevention and control, treatment and rehabilitation of  
26 juvenile offenders, care and treatment of persons with mental  
27 illness or ~~mental retardation~~ an intellectual disability, and  
28 other related programs as provided by law.

29 Sec. 21. Section 218.92, Code 2011, is amended to read as  
30 follows:

31 **218.92 Patients with dangerous mental disturbances.**

32 When a patient in a state resource center for persons  
33 with ~~mental retardation~~ an intellectual disability, a state  
34 mental health institute, or another institution under the  
35 administration of the department of human services has become

1 so mentally disturbed as to constitute a danger to self, to  
2 other patients or staff of the institution, or to the public,  
3 and the institution cannot provide adequate security, the  
4 administrator in charge of the institution, with the consent  
5 of the director of the Iowa department of corrections, may  
6 order the patient to be transferred to the Iowa medical and  
7 classification center, if the superintendent of the institution  
8 from which the patient is to be transferred, with the support  
9 of a majority of the medical staff, recommends the transfer in  
10 the interest of the patient, other patients, or the public. If  
11 the patient transferred was hospitalized pursuant to sections  
12 229.6 to 229.15, the transfer shall be promptly reported to  
13 the court that ordered the hospitalization of the patient, as  
14 required by section 229.15, subsection 5. The Iowa medical  
15 and classification center has the same rights, duties, and  
16 responsibilities with respect to the patient as the institution  
17 from which the patient was transferred had while the patient  
18 was hospitalized in the institution. The cost of the transfer  
19 shall be paid from the funds of the institution from which the  
20 transfer is made.

21 Sec. 22. Section 222.1, Code 2011, is amended to read as  
22 follows:

23 **222.1 Purpose of state resource centers.**

24 1. The Glenwood state resource center and the Woodward  
25 state resource center are established and shall be maintained  
26 as the state's regional resource centers for the purpose of  
27 providing treatment, training, instruction, care, habilitation,  
28 and support of persons with ~~mental retardation~~ an intellectual  
29 disability or other disabilities in this state, and providing  
30 facilities, services, and other support to the communities  
31 located in the region being served by a state resource center.  
32 In addition, the state resource centers are encouraged to serve  
33 as a training resource for community-based program staff,  
34 medical students, and other participants in professional  
35 education programs. A resource center may request the approval

1 of the council on human services to change the name of the  
2 resource center for use in communication with the public, in  
3 signage, and in other forms of communication.

4 2. A special ~~mental retardation~~ intellectual disability  
5 unit may be maintained at one of the state mental health  
6 institutes for the purposes set forth in sections 222.88 to  
7 222.91.

8 Sec. 23. Section 222.2, subsections 5 and 6, Code 2011, are  
9 amended to read as follows:

10 5. ~~"Mental retardation" or "mentally retarded"~~ "Intellectual  
11 disability" means ~~a term or terms to describe children and~~  
12 ~~adults who as a result of inadequately developed intelligence~~  
13 ~~are significantly impaired in ability to learn or to adapt to~~  
14 ~~the demands of society~~ the same as defined in section 4.1.

15 6. "Special unit" means a special ~~mental retardation~~  
16 intellectual disability unit established at a state mental  
17 health institute pursuant to sections 222.88 to 222.91.

18 Sec. 24. Section 222.6, Code 2011, is amended to read as  
19 follows:

20 **222.6 State districts.**

21 The administrator shall divide the state into two districts  
22 in such manner that one of the resource centers shall be  
23 located within each of the districts. Such districts may  
24 from time to time be changed. After such districts have been  
25 established, the administrator shall notify all boards of  
26 supervisors, county auditors, and clerks of the district courts  
27 of the action. Thereafter, unless the administrator otherwise  
28 orders, all admissions or commitments of persons with ~~mental~~  
29 ~~retardation~~ an intellectual disability from a district shall be  
30 to the resource center located within such district.

31 Sec. 25. Section 222.9, Code 2011, is amended to read as  
32 follows:

33 **222.9 Unauthorized departures.**

34 If any person with ~~mental retardation~~ an intellectual  
35 disability shall depart without proper authorization from a

1 resource center or a special unit, it shall be the duty of the  
2 superintendent and the superintendent's assistants and all  
3 peace officers of any county in which such patient may be found  
4 to take and detain the patient without a warrant or order and  
5 to immediately report such detention to the superintendent who  
6 shall immediately provide for the return of such patient to the  
7 resource center or special unit.

8 Sec. 26. Section 222.10, Code 2011, is amended to read as  
9 follows:

10 **222.10 Duty of peace officer.**

11 When any person with ~~mental retardation~~ an intellectual  
12 disability departs without proper authority from an institution  
13 in another state and is found in this state, any peace officer  
14 in any county in which such patient is found may take and  
15 detain the patient without warrant or order and shall report  
16 such detention to the administrator. The administrator shall  
17 provide for the return of the patient to the authorities in the  
18 state from which the unauthorized departure was made. Pending  
19 return, such patient may be detained temporarily at one of the  
20 institutions of this state governed by the administrator or by  
21 the administrator of the division of child and family services  
22 of the department of human services. The provisions of this  
23 section relating to the administrator shall also apply to the  
24 return of other nonresident persons with ~~mental retardation~~ an  
25 intellectual disability having legal settlement outside the  
26 state of Iowa.

27 Sec. 27. Section 222.12, subsections 1 and 3, Code 2011, are  
28 amended to read as follows:

29 1. Upon the death of a patient of a resource center or  
30 special unit, a preliminary investigation of the death shall be  
31 conducted as required by section 218.64 by the county medical  
32 examiner as provided in section 331.802. Such a preliminary  
33 investigation shall also be conducted in the event of a sudden  
34 or mysterious death of a patient in a private institution for  
35 persons with ~~mental retardation~~ an intellectual disability.

1 The chief administrative officer of any private institution may  
2 request an investigation of the death of any patient by the  
3 county medical examiner.

4 3. The parent, guardian, or other person responsible for  
5 the admission of a patient to a private institution for persons  
6 with ~~mental retardation~~ an intellectual disability may also  
7 request such a preliminary investigation by the county medical  
8 examiner in the event of the death of the patient that is not  
9 sudden or mysterious. The person or persons making the request  
10 are liable for the expense of such preliminary investigation  
11 and payment for the expense may be required in advance.

12 Sec. 28. Section 222.13, subsections 1 and 2, Code 2011, are  
13 amended to read as follows:

14 1. If an adult person is believed to be a person with ~~mental~~  
15 ~~retardation~~ an intellectual disability, the adult person or  
16 the adult person's guardian may submit a request through the  
17 central point of coordination process for the county board  
18 of supervisors to apply to the superintendent of any state  
19 resource center for the voluntary admission of the adult  
20 person either as an inpatient or an outpatient of the resource  
21 center. After determining the legal settlement of the adult  
22 person as provided by this chapter, the board of supervisors  
23 shall, on forms prescribed by the administrator, apply to the  
24 superintendent of the resource center in the district for the  
25 admission of the adult person to the resource center. An  
26 application for admission to a special unit of any adult person  
27 believed to be in need of any of the services provided by the  
28 special unit under section 222.88 may be made in the same  
29 manner, upon request of the adult person or the adult person's  
30 guardian. The superintendent shall accept the application  
31 providing a preadmission diagnostic evaluation, performed  
32 through the central point of coordination process, confirms or  
33 establishes the need for admission, except that an application  
34 may not be accepted if the institution does not have adequate  
35 facilities available or if the acceptance will result in an



1 overcrowded condition.

2     2. If the resource center has no appropriate program for the  
3 treatment of an adult or minor person with ~~mental-retardation~~  
4 an intellectual disability applying under this section or  
5 section 222.13A, the board of supervisors shall arrange for  
6 the placement of the person in any public or private facility  
7 within or without the state, approved by the director of the  
8 department of human services, which offers appropriate services  
9 for the person, as determined through the central point of  
10 coordination process.

11     Sec. 29. Section 222.13A, subsections 1 and 2, Code 2011,  
12 are amended to read as follows:

13     1. If a minor is believed to be a person with ~~mental-~~  
14 ~~retardation~~ an intellectual disability, the minor's parent,  
15 guardian, or custodian may request the county board of  
16 supervisors to apply for admission of the minor as a voluntary  
17 patient in a state resource center. If the resource center  
18 does not have appropriate services for the minor's treatment,  
19 the board of supervisors may arrange for the admission of the  
20 minor in a public or private facility within or without the  
21 state, approved by the director of human services, which offers  
22 appropriate services for the minor's treatment.

23     2. Upon receipt of an application for voluntary admission  
24 of a minor, the board of supervisors shall provide for a  
25 preadmission diagnostic evaluation of the minor to confirm  
26 or establish the need for the admission. The preadmission  
27 diagnostic evaluation shall be performed by a person who  
28 meets the qualifications of a qualified ~~mental-retardation~~  
29 intellectual disability professional who is designated through  
30 the central point of coordination process.

31     Sec. 30. Section 222.16, Code 2011, is amended to read as  
32 follows:

33     **222.16 Petition for adjudication of ~~mental-retardation~~**  
34 **intellectual disability.**

35     A petition for the adjudication ~~of the mental-retardation~~

1 of a person as having an intellectual disability within the  
2 meaning of this chapter may, with the permission of the court,  
3 be filed without fee against a person with the clerk of the  
4 district court of the county or city in which the person who is  
5 alleged to have ~~mental retardation~~ an intellectual disability  
6 resides or is found. The petition may be filed by any relative  
7 of the person, by a guardian, or by any reputable citizen of  
8 the county where the person who is alleged to have ~~mental~~  
9 ~~retardation~~ an intellectual disability resides or is found.

10 Commitment of a person pursuant to section 222.31 does not  
11 constitute a finding or raise a presumption that the person  
12 is incompetent to vote. The court shall make a separate  
13 determination as to the person's competency to vote. The court  
14 shall find a person incompetent to vote only upon determining  
15 that the person lacks sufficient mental capacity to comprehend  
16 and exercise the right to vote.

17 Sec. 31. Section 222.17, subsection 1, Code 2011, is amended  
18 to read as follows:

19 1. Allege that such person ~~is mentally retarded~~ has an  
20 intellectual disability within the meaning of this chapter.

21 Sec. 32. Section 222.18, Code 2011, is amended to read as  
22 follows:

23 **222.18 County attorney to appear.**

24 The county attorney shall, if requested, appear on behalf  
25 of any petitioner for the commitment of a person alleged to  
26 ~~be mentally retarded~~ have an intellectual disability under  
27 this chapter, and on behalf of all public officials and  
28 superintendents in all matters pertaining to the duties imposed  
29 upon them by this chapter.

30 Upon the filing of the petition, the court shall enter an  
31 order directing the county attorney of the county in which  
32 the person who is alleged to have ~~mental retardation~~ an  
33 intellectual disability resides to make a full investigation  
34 regarding the financial condition of that person and of those  
35 persons legally liable for that person's support under section

1 222.78.

2 Sec. 33. Section 222.19, unnumbered paragraph 1, Code 2011,  
3 is amended to read as follows:

4 The following persons, in addition to the person alleged to  
5 ~~be mentally retarded~~ have an intellectual disability, shall be  
6 made party respondents if the persons reside in this state and  
7 their names and residences are known:

8 Sec. 34. Section 222.21, Code 2011, is amended to read as  
9 follows:

10 **222.21 Order requiring attendance.**

11 If the person alleged to have ~~mental retardation~~ an  
12 intellectual disability is not before the court, the court may  
13 issue an order requiring the person who has the care, custody,  
14 and control of the person who is alleged to have ~~mental~~  
15 ~~retardation~~ an intellectual disability to bring the person into  
16 court at the time and place stated in the order.

17 Sec. 35. Section 222.22, Code 2011, is amended to read as  
18 follows:

19 **222.22 Time of appearance.**

20 The time of appearance shall not be less than five days  
21 after completed service unless the court orders otherwise.  
22 Appearance on behalf of the person who is alleged to have  
23 ~~mental retardation~~ an intellectual disability may be made by  
24 any citizen of the county or by any relative. The district  
25 court shall assign counsel for the person who is alleged to  
26 have ~~mental retardation~~ an intellectual disability. Counsel  
27 shall prior to proceedings personally consult with the person  
28 who is alleged to have ~~mental retardation~~ an intellectual  
29 disability unless the judge appointing counsel certifies that  
30 in the judge's opinion, consultation shall serve no useful  
31 purpose. The certification shall be made a part of the record.  
32 An attorney assigned by the court shall be compensated by the  
33 county at an hourly rate to be established by the county board  
34 of supervisors in substantially the same manner as provided in  
35 section 815.7.

1     Sec. 36. Section 222.25, Code 2011, is amended to read as  
2 follows:

3     **222.25 Custody pending hearing.**

4     Pending final hearing, the court may at any time after  
5 the filing of the petition and on satisfactory showing that  
6 it is in the best interest of the person who is alleged to  
7 have ~~mental retardation~~ an intellectual disability and of the  
8 community that the person be at once taken into custody, or  
9 that service of notice will be ineffectual if the person is not  
10 taken into custody, issue an order for the immediate production  
11 of the person before the court. In such case, the court may  
12 make any proper order for the custody or confinement of the  
13 person as will protect the person and the community and insure  
14 the presence of the person at the hearing. The person shall  
15 not be confined with those accused or convicted of crime.

16     Sec. 37. Section 222.27, Code 2011, is amended to read as  
17 follows:

18     **222.27 Hearing in public.**

19     Hearings shall be public, unless otherwise requested by the  
20 parent, guardian, or other person having the custody of the  
21 person with ~~mental retardation~~ an intellectual disability,  
22 or if the judge considers, a closed hearing in the best  
23 interests of the person with ~~mental retardation~~ an intellectual  
24 disability.

25     Sec. 38. Section 222.28, Code 2011, is amended to read as  
26 follows:

27     **222.28 Commission to examine.**

28     The court may, at or prior to the final hearing, appoint  
29 a commission of one qualified physician and one qualified  
30 psychologist, designated through the central point of  
31 coordination process, who shall make a personal examination of  
32 the person alleged to ~~be mentally retarded~~ have an intellectual  
33 disability for the purpose of determining the mental condition  
34 of the person.

35     Sec. 39. Section 222.31, subsection 1, unnumbered paragraph

1 1, Code 2011, is amended to read as follows:

2 If in the opinion of the court, or of a commission as  
3 authorized in section 222.28, the person ~~is mentally retarded~~  
4 has an intellectual disability within the meaning of this  
5 chapter and the court determines that it will be conducive  
6 to the welfare of that person and of the community to commit  
7 the person to a proper institution for treatment, training,  
8 instruction, care, habilitation, and support, and that services  
9 or support provided to the family of such a person who is a  
10 child will not enable the family to continue to care for the  
11 child in the child's home, the court shall by proper order:

12 Sec. 40. Section 222.34, Code 2011, is amended to read as  
13 follows:

14 **222.34 Guardianship proceedings.**

15 If a guardianship is proposed for a person with ~~mental~~  
16 ~~retardation~~ an intellectual disability, guardianship  
17 proceedings shall be initiated and conducted as provided in  
18 chapter 633.

19 Sec. 41. Section 222.38, Code 2011, is amended to read as  
20 follows:

21 **222.38 Delivery of person to institution, resource center, or**  
22 **special unit.**

23 The court may, for the purpose of committing a person  
24 direct the clerk to authorize the employment of one or  
25 more assistants. If a person with ~~mental retardation~~ an  
26 intellectual disability is taken to an institution, resource  
27 center, or special unit, at least one attendant shall be of the  
28 same sex.

29 Sec. 42. Section 222.43, subsection 1, paragraphs a, b, and  
30 c, Code 2011, are amended to read as follows:

31 a. That the person adjudged to ~~be mentally retarded~~ is not  
32 ~~mentally retarded~~ have an intellectual disability does not have  
33 an intellectual disability.

34 b. That the person adjudged to ~~be mentally retarded~~ have an  
35 intellectual disability has improved as to be capable of self

1 ~~care~~ self-care.

2     c. That the relatives or friends of the person with ~~mental~~  
3 ~~retardation~~ an intellectual disability are able and willing  
4 to support and care for the person with ~~mental-retardation~~ an  
5 intellectual disability and request the person's discharge,  
6 and in the judgment of the superintendent of the institution  
7 or resource center having charge of the person, no harmful  
8 consequences are likely to follow such discharge.

9     Sec. 43. Section 222.45, Code 2011, is amended to read as  
10 follows:

11     **222.45 Power of court.**

12     On the hearing, the court may discharge the person with  
13 ~~mental-retardation~~ an intellectual disability from all  
14 supervision, control, and care, or may transfer the person  
15 from a public institution to a private institution, or vice  
16 versa, or transfer the person from a special unit to a resource  
17 center, or vice versa, as the court deems appropriate under  
18 all the circumstances. If the person has been determined to  
19 lack the mental capacity to vote, the court shall include in  
20 its order a finding that this determination remains in force  
21 or is revoked.

22     Sec. 44. Section 222.47, Code 2011, is amended to read as  
23 follows:

24     **222.47 Penalty for false petition of commitment.**

25     Any person who shall maliciously seek to have any person  
26 adjudged ~~mentally-retarded~~ as a person with an intellectual  
27 disability, knowing that such person ~~is not mentally-retarded~~  
28 does not have an intellectual disability, shall be guilty of  
29 a fraudulent practice.

30     Sec. 45. Section 222.49, Code 2011, is amended to read as  
31 follows:

32     **222.49 Costs paid.**

33     The costs of proceedings shall be defrayed from the county  
34 treasury unless otherwise ordered by the court. When the  
35 person alleged to ~~be mentally-retarded~~ have an intellectual

1 disability is found not to ~~be mentally retarded~~ have an  
2 intellectual disability, the court shall render judgment for  
3 such costs against the person filing the petition except when  
4 the petition is filed by order of court.

5 Sec. 46. Section 222.50, Code 2011, is amended to read as  
6 follows:

7 **222.50 County of legal settlement to pay.**

8 When the proceedings are instituted in a county in which  
9 the person who is alleged to have ~~mental retardation~~ an  
10 intellectual disability was found but which is not the county  
11 of legal settlement of the person, and the costs are not taxed  
12 to the petitioner, the county which is the legal settlement of  
13 the person shall, on presentation of a properly itemized bill  
14 for such costs, repay the costs to the former county. When the  
15 person's legal settlement is outside the state or is unknown,  
16 the costs shall be paid out of money in the state treasury not  
17 otherwise appropriated, itemized on vouchers executed by the  
18 auditor of the county which paid the costs, and approved by the  
19 administrator.

20 Sec. 47. Section 222.51, Code 2011, is amended to read as  
21 follows:

22 **222.51 Costs collected.**

23 Costs incident to the hearings and commitment of a  
24 person with ~~mental retardation~~ an intellectual disability  
25 to an institution, a resource center, or a special unit  
26 may be collected from the person with ~~mental retardation~~ an  
27 intellectual disability and from all persons legally chargeable  
28 with the support of the person with ~~mental retardation~~ an  
29 intellectual disability.

30 Sec. 48. Section 222.52, Code 2011, is amended to read as  
31 follows:

32 **222.52 Proceedings against delinquent — hearing on**  
33 **~~retardation~~ intellectual disability.**

34 When in proceedings against an alleged delinquent or  
35 dependent child, the court is satisfied from any evidence that

1 such child ~~is mentally retarded~~ has an intellectual disability,  
2 the court may order a continuance of such proceeding, and may  
3 direct an officer of the court or some other proper person  
4 to file a petition against such child permitted under the  
5 provisions of this chapter. Pending hearing of the petition  
6 the court may by order provide proper custody for the child.

7 Sec. 49. Section 222.53, Code 2011, is amended to read as  
8 follows:

9 **222.53 Conviction — suspension.**

10 If on the conviction in the district court of any person  
11 for any crime or for any violation of any municipal ordinance,  
12 or if on the determination in ~~said courts~~ the court that a  
13 child is dependent, neglected, or delinquent and it appears  
14 from any evidence presented to the court before sentence,  
15 that such person ~~is mentally retarded~~ has an intellectual  
16 disability within the meaning of this chapter, the court may  
17 suspend sentence or order, and may order any officer of the  
18 court or some other proper person to file a petition permitted  
19 under the provisions of this chapter against ~~said~~ such person.  
20 Pending hearing of the petition, the court shall provide for  
21 the custody of ~~said~~ such person as directed in section 222.52.

22 Sec. 50. Section 222.54, Code 2011, is amended to read as  
23 follows:

24 **222.54 Procedure after hearing.**

25 Should it be found under sections 222.52 and 222.53 that  
26 ~~said such person is not mentally retarded~~ does not have an  
27 intellectual disability, the court shall proceed with the  
28 original proceedings as though no petition had been filed.

29 Sec. 51. Section 222.56, Code 2011, is amended to read as  
30 follows:

31 **222.56 Transfer to institution for persons with mental**  
32 **~~retardation~~ an intellectual disability.**

33 When the mental condition of a person in a private  
34 institution for persons with mental illness is found to be such  
35 that the patient should be transferred to an institution for



1 persons with ~~mental-retardation~~ an intellectual disability, the  
2 person may be proceeded against under this chapter.

3 Sec. 52. Section 222.58, Code 2011, is amended to read as  
4 follows:

5 **222.58 Administrator to keep record.**

6 The administrator shall keep a record of all persons  
7 adjudged to ~~be mentally-retarded~~ have an intellectual  
8 disability and of the orders respecting such persons by the  
9 courts throughout the state. Copies of such orders shall be  
10 furnished by the clerk of the court without the administrator's  
11 application therefor.

12 Sec. 53. Section 222.60, subsection 1, unnumbered paragraph  
13 1, Code 2011, is amended to read as follows:

14 All necessary and legal expenses for the cost of admission or  
15 commitment or for the treatment, training, instruction, care,  
16 habilitation, support and transportation of persons with ~~mental-~~  
17 ~~retardation~~ an intellectual disability, as provided for in  
18 the county management plan provisions implemented pursuant to  
19 section 331.439, subsection 1, in a state resource center, or  
20 in a special unit, or any public or private facility within or  
21 without the state, approved by the director of the department  
22 of human services, shall be paid by either:

23 Sec. 54. Section 222.60, subsection 2, paragraph a, Code  
24 2011, is amended to read as follows:

25 a. Prior to a county of legal settlement approving the  
26 payment of expenses for a person under this section, the county  
27 may require that the person be diagnosed to determine if the  
28 person has ~~mental-retardation~~ an intellectual disability or  
29 that the person be evaluated to determine the appropriate level  
30 of services required to meet the person's needs relating to  
31 ~~mental-retardation~~ an intellectual disability. The diagnosis  
32 and the evaluation may be performed concurrently and shall  
33 be performed by an individual or individuals approved by the  
34 county who are qualified to perform the diagnosis or the  
35 evaluation. Following the initial approval for payment of

1 expenses, the county of legal settlement may require that an  
2 evaluation be performed at reasonable time periods.

3 Sec. 55. Section 222.60, subsection 3, Code 2011, is amended  
4 to read as follows:

5 3. a. A diagnosis of ~~mental retardation~~ an intellectual  
6 disability under this section shall be made only when the onset  
7 of the person's condition was prior to the age of eighteen  
8 years and shall be based on an assessment of the person's  
9 intellectual functioning and level of adaptive skills. The  
10 diagnosis shall be made by an individual who is a psychologist  
11 or psychiatrist who is professionally trained to administer  
12 the tests required to assess intellectual functioning and to  
13 evaluate a person's adaptive skills.

14 b. A diagnosis of ~~mental retardation~~ an intellectual  
15 disability shall be made in accordance with the criteria  
16 provided in the diagnostic and statistical manual of  
17 mental disorders, ~~fourth edition~~, published by the American  
18 psychiatric association, as provided in the definition of  
19 intellectual disability in section 4.1.

20 Sec. 56. Section 222.66, Code 2011, is amended to read as  
21 follows:

22 **222.66 Transfers — expenses.**

23 The transfer to a resource center or a special unit or to the  
24 place of legal settlement of a person with ~~mental retardation~~  
25 an intellectual disability who has no legal settlement in this  
26 state or whose legal settlement is unknown, shall be made  
27 in accordance with such directions as shall be prescribed  
28 by the administrator and when practicable by employees of  
29 the state resource center or the special unit. The actual  
30 and necessary expenses of such transfers shall be paid on  
31 itemized vouchers sworn to by the claimants and approved by  
32 the administrator from any funds in the state treasury not  
33 otherwise appropriated.

34 Sec. 57. Section 222.78, Code 2011, is amended to read as  
35 follows:

1       **222.78 Parents and others liable for support.**

2       The father and mother of any patient admitted or committed to  
3 a resource center or to a special unit, as either an inpatient  
4 or an outpatient, and any person, firm, or corporation bound  
5 by contract made for support of the patient are liable for the  
6 support of the patient. The patient and those legally bound  
7 for the support of the patient shall be liable to the county  
8 for all sums advanced by the county to the state under the  
9 provisions of sections 222.60 and 222.77. The liability of  
10 any person, other than the patient, who is legally bound for  
11 the support of a patient who is under eighteen years of age  
12 in a resource center or a special unit shall not exceed the  
13 average minimum cost of the care of a normally intelligent  
14 minor without a disability of the same age and sex as the  
15 minor patient. The administrator shall establish the scale  
16 for this purpose but the scale shall not exceed the standards  
17 for personal allowances established by the state division  
18 under the family investment program. The father or mother  
19 shall incur liability only during any period when the father  
20 or mother either individually or jointly receive a net income  
21 from whatever source, commensurate with that upon which they  
22 would be liable to make an income tax payment to this state.  
23 The father or mother of a patient shall not be liable for the  
24 support of the patient upon the patient attaining eighteen  
25 years of age. Nothing in this section shall be construed to  
26 prevent a relative or other person from voluntarily paying  
27 the full actual cost as established by the administrator for  
28 caring for the patient with ~~mental retardation~~ an intellectual  
29 disability.

30       Sec. 58. Section 222.80, Code 2011, is amended to read as  
31 follows:

32       **222.80 Liability to county.**

33       A person admitted or committed to a county institution  
34 or home or admitted or committed at county expense to a  
35 private hospital, sanitarium, or other facility for treatment,

1 training, instruction, care, habilitation, and support as a  
2 patient with ~~mental-retardation~~ an intellectual disability  
3 shall be liable to the county for the reasonable cost of the  
4 support as provided in section 222.78.

5 Sec. 59. Section 222.88, Code 2011, is amended to read as  
6 follows:

7 **222.88 ~~Special mental-retardation~~ intellectual disability**  
8 **unit.**

9 The director of human services may organize and establish a  
10 special ~~mental-retardation~~ intellectual disability unit at an  
11 existing institution which may provide:

12 1. Psychiatric and related services to children with ~~mental-~~  
13 ~~retardation~~ an intellectual disability and adults who are also  
14 emotionally disturbed or otherwise mentally ill.

15 2. Specific programs to meet the needs of such other special  
16 categories of persons with ~~mental-retardation~~ an intellectual  
17 disability as may be designated by the director.

18 3. Appropriate diagnostic evaluation services.

19 Sec. 60. Section 225C.1, subsection 1, Code 2011, is amended  
20 to read as follows:

21 1. The general assembly finds that services to persons with  
22 mental illness, ~~mental-retardation~~ an intellectual disability,  
23 developmental disabilities, or brain injury are provided in  
24 many parts of the state by highly autonomous community-based  
25 service providers working cooperatively with state and county  
26 officials. However, the general assembly recognizes that  
27 heavy reliance on property tax funding for mental health and  
28 ~~mental-retardation~~ an intellectual disability services has  
29 enabled many counties to exceed minimum state standards for the  
30 services resulting in an uneven level of services around the  
31 state. Consequently, greater efforts should be made to assure  
32 close coordination and continuity of care for those persons  
33 receiving publicly supported disability services in Iowa. It  
34 is the purpose of this chapter to continue and to strengthen  
35 the services to persons with disabilities now available in

1 the state of Iowa, to make disability services conveniently  
2 available to all persons in this state upon a reasonably  
3 uniform financial basis, and to assure the continued high  
4 quality of these services.

5 Sec. 61. Section 225C.2, subsections 6 and 8, Code 2011, are  
6 amended to read as follows:

7 6. "*Disability services*" means services and other support  
8 available to a person with mental illness, ~~mental retardation~~  
9 an intellectual disability or other developmental disability,  
10 or brain injury.

11 8. "*Person with a disability*" means a person with mental  
12 illness, ~~mental retardation~~ an intellectual disability or other  
13 developmental disability, or brain injury.

14 Sec. 62. Section 225C.3, subsections 1 and 3, Code 2011, are  
15 amended to read as follows:

16 1. The division is designated the state mental health  
17 authority as defined in 42 U.S.C. § 201(m) (1976) for the  
18 purpose of directing the benefits of the National Mental  
19 Health Act, 42 U.S.C. § 201 et seq. This designation does not  
20 preclude the board of regents from authorizing or directing any  
21 institution under its jurisdiction to carry out educational,  
22 prevention, and research activities in the areas of mental  
23 health and ~~mental retardation~~ intellectual disability. The  
24 division may contract with the board of regents or any  
25 institution under the board's jurisdiction to perform any of  
26 these functions.

27 3. The division is administered by the administrator.  
28 The administrator of the division shall be qualified in the  
29 general field of mental health, ~~mental retardation~~ intellectual  
30 disability, or other disability services, and preferably in  
31 more than one field. The administrator shall have at least  
32 five years of experience as an administrator in one or more of  
33 these fields.

34 Sec. 63. Section 225C.4, subsection 1, paragraphs a, c, g,  
35 and q, Code 2011, are amended to read as follows:

1     a. Prepare and administer the comprehensive mental  
2 health and disability services plan as provided in section  
3 225C.6B, including state mental health and ~~mental-retardation~~  
4 intellectual disability plans for the provision of disability  
5 services within the state and the state developmental  
6 disabilities plan. The administrator shall consult with the  
7 Iowa department of public health, the state board of regents or  
8 a body designated by the board for that purpose, the department  
9 of management or a body designated by the director of the  
10 department for that purpose, the department of education, the  
11 department of workforce development and any other appropriate  
12 governmental body, in order to facilitate coordination of  
13 disability services provided in this state. The state mental  
14 health and ~~mental-retardation~~ intellectual disability plans  
15 shall be consistent with the state health plan, and shall  
16 incorporate county disability services plans.

17     c. Emphasize the provision of outpatient services by  
18 community mental health centers and local ~~mental-retardation~~  
19 intellectual disability providers as a preferable alternative  
20 to inpatient hospital services.

21     g. Administer state programs regarding the care, treatment,  
22 and supervision of persons with mental illness or ~~mental~~  
23 ~~retardation~~ an intellectual disability, except the programs  
24 administered by the state board of regents.

25     q. In cooperation with the department of inspections and  
26 appeals, recommend minimum standards under section 227.4 for  
27 the care of and services to persons with mental illness and  
28 ~~mental-retardation~~ an intellectual disability residing in  
29 county care facilities.

30     Sec. 64. Section 225C.5, subsection 1, unnumbered paragraph  
31 1, Code Supplement 2011, is amended to read as follows:

32     A mental health and disability services commission is  
33 created as the state policy-making body for the provision of  
34 services to persons with mental illness, ~~mental-retardation~~ an  
35 intellectual disability, or other developmental disabilities,

1 or brain injury. The commission's voting members shall be  
2 appointed to three-year staggered terms by the governor and  
3 are subject to confirmation by the senate. Commission members  
4 shall be appointed on the basis of interest and experience in  
5 the fields of mental health, ~~mental-retardation~~ intellectual  
6 disability, or other developmental disabilities, and brain  
7 injury, in a manner so as to ensure adequate representation  
8 from persons with disabilities and individuals knowledgeable  
9 concerning disability services. The department shall provide  
10 staff support to the commission, and the commission may utilize  
11 staff support and other assistance provided to the commission  
12 by other persons. The commission shall meet at least four  
13 times per year. The membership of the commission shall consist  
14 of the following persons who, at the time of appointment to the  
15 commission, are active members of the indicated groups:

16 Sec. 65. Section 225C.7, subsections 2 and 4, Code 2011, are  
17 amended to read as follows:

18 2. Moneys appropriated to the fund shall be allocated  
19 to counties for funding of community-based mental health,  
20 ~~mental-retardation~~ intellectual disability, developmental  
21 disabilities, and brain injury services in the manner  
22 provided in the appropriation to the fund. If the allocation  
23 methodology includes a population factor, the most recent  
24 population estimates issued by the United States bureau of the  
25 census shall be applied.

26 4. a. A county is entitled to receive money from the  
27 fund if that county raised by county levy and expended for  
28 mental health, ~~mental-retardation~~ intellectual disability,  
29 and developmental disabilities services, in the preceding  
30 fiscal year, an amount of money at least equal to the amount so  
31 raised and expended for those purposes during the fiscal year  
32 beginning July 1, 1980.

33 b. With reference to the fiscal year beginning July 1, 1980,  
34 money *"raised by county levy and expended for mental health,*  
35 *~~mental-retardation~~ intellectual disability, and developmental*

1 *disabilities services* means the county's maintenance of effort  
2 determined by using the general allocation application for the  
3 state community mental health and mental retardation services  
4 fund under section 225C.10, subsection 1, Code 1993. The  
5 department, with the agreement of each county, shall establish  
6 the actual amount expended by each county for persons with  
7 mental illness, ~~mental retardation~~ an intellectual disability,  
8 or a developmental disability in the fiscal year which began  
9 on July 1, 1980, and this amount shall be deemed each county's  
10 maintenance of effort.

11 Sec. 66. Section 225C.12, subsection 2, Code 2011, is  
12 amended to read as follows:

13 2. A county may claim reimbursement by filing with the  
14 administrator a claim in a form prescribed by the administrator  
15 by rule. Claims may be filed on a quarterly basis, and when  
16 received shall be verified as soon as reasonably possible  
17 by the administrator. The administrator shall certify to  
18 the director of the department of administrative services  
19 the amount to which each county claiming reimbursement is  
20 entitled, and the director of the department of administrative  
21 services shall issue warrants to the respective counties  
22 drawn upon funds appropriated by the general assembly for  
23 the purpose of this section. A county shall place funds  
24 received under this section in the county mental health,  
25 ~~mental retardation~~ intellectual disability, and developmental  
26 disabilities services fund created under section 331.424A. If  
27 the appropriation for a fiscal year is insufficient to pay  
28 all claims arising under this section, the director of the  
29 department of administrative services shall prorate the funds  
30 appropriated for that year among the claimant counties so that  
31 an equal proportion of each county's claim is paid in each  
32 quarter for which proration is necessary.

33 Sec. 67. Section 225C.13, subsection 2, Code 2011, is  
34 amended to read as follows:

35 2. The division administrator may work with the appropriate



1 administrator of the department's institutions to establish  
2 mental health and ~~mental-retardation~~ intellectual disability  
3 services for all institutions under the control of the director  
4 of human services and to establish an autism unit, following  
5 mutual planning and consultation with the medical director of  
6 the state psychiatric hospital, at an institution or a facility  
7 administered by the department to provide psychiatric and  
8 related services and other specific programs to meet the needs  
9 of autistic persons, and to furnish appropriate diagnostic  
10 evaluation services.

11 Sec. 68. Section 225C.21, subsection 1, Code 2011, is  
12 amended to read as follows:

13 1. As used in this section, "*supported community living*  
14 *services*" means services provided in a noninstitutional setting  
15 to adult persons with mental illness, ~~mental-retardation~~ an  
16 intellectual disability, or developmental disabilities to meet  
17 the persons' daily living needs.

18 Sec. 69. Section 225C.25, Code 2011, is amended to read as  
19 follows:

20 **225C.25 Short title.**

21 Sections 225C.25 through 225C.28B shall be known as "the  
22 bill of rights and service quality standards of persons with  
23 ~~mental-retardation~~ an intellectual disability, developmental  
24 disabilities, brain injury, or chronic mental illness".

25 Sec. 70. Section 225C.26, Code 2011, is amended to read as  
26 follows:

27 **225C.26 Scope.**

28 These rights and service quality standards apply to any  
29 person with ~~mental-retardation~~ an intellectual disability,  
30 a developmental disability, brain injury, or chronic mental  
31 illness who receives services which are funded in whole or in  
32 part by public funds or services which are permitted under Iowa  
33 law.

34 Sec. 71. Section 225C.28A, unnumbered paragraph 1, Code  
35 2011, is amended to read as follows:

1 As the state participates more fully in funding services  
2 and other support to persons with ~~mental-retardation~~ an  
3 intellectual disability, developmental disabilities, brain  
4 injury, or chronic mental illness, it is the intent of the  
5 general assembly that the state shall seek to attain the  
6 following quality standards in the provision of the services:

7 Sec. 72. Section 225C.28B, Code 2011, is amended to read as  
8 follows:

9 **225C.28B Rights of persons with ~~mental-retardation~~ an**  
10 **intellectual disability, developmental disabilities, brain**  
11 **injury, or chronic mental illness.**

12 All of the following rights shall apply to a person with  
13 ~~mental-retardation~~ an intellectual disability, a developmental  
14 disability, brain injury, or chronic mental illness:

15 1. *Wage protection.* A person with ~~mental-retardation~~ an  
16 intellectual disability, a developmental disability, brain  
17 injury, or chronic mental illness engaged in work programs  
18 shall be paid wages commensurate with the going rate for  
19 comparable work and productivity.

20 2. *Insurance protection.* Pursuant to section 507B.4,  
21 subsection 7, a person or designated group of persons shall not  
22 be denied insurance coverage by reason of ~~mental-retardation~~  
23 an intellectual disability, a developmental disability, brain  
24 injury, or chronic mental illness.

25 3. *Due process.* A person with ~~mental-retardation~~ an  
26 intellectual disability, a developmental disability, brain  
27 injury, or chronic mental illness retains the right to  
28 citizenship in accordance with the laws of the state.

29 4. *Participation in planning activities.* If an individual  
30 treatment, habilitation, and program plan is developed for a  
31 person with ~~mental-retardation~~ an intellectual disability,  
32 a developmental disability, brain injury, or chronic mental  
33 illness, the person has the right to participate in the  
34 formulation of the plan.

35 Sec. 73. Section 225C.32, Code 2011, is amended to read as

1 follows:

2 **225C.32 Plan appeals process.**

3 The department shall establish an appeals process by which a  
4 mental health, ~~mental-retardation~~ intellectual disability, and  
5 developmental disabilities coordinating board or an affected  
6 party may appeal a decision of the department or of the  
7 coordinating board.

8 Sec. 74. Section 225C.52, subsection 1, Code 2011, is  
9 amended to read as follows:

10 1. Establishing a comprehensive community-based mental  
11 health services system for children and youth is part of  
12 fulfilling the requirements of the division and the commission  
13 to facilitate a comprehensive, continuous, and integrated state  
14 mental health and disability services plan in accordance with  
15 sections 225C.4, 225C.6, and 225C.6A, and other provisions  
16 of this chapter. The purpose of establishing the children's  
17 system is to improve access for children and youth with  
18 serious emotional disturbances and youth with other qualifying  
19 mental health disorders to mental health treatment, services,  
20 and other support in the least restrictive setting possible  
21 so the children and youth can live with their families and  
22 remain in their communities. The children's system is also  
23 intended to meet the needs of children and youth who have  
24 mental health disorders that co-occur with substance abuse,  
25 ~~mental-retardation~~ intellectual disability, developmental  
26 disabilities, or other disabilities. The children's system  
27 shall emphasize community-level collaborative efforts between  
28 children and youth and the families and the state's systems  
29 of education, child welfare, juvenile justice, health care,  
30 substance abuse, and mental health.

31 Sec. 75. Section 226.8, Code 2011, is amended to read as  
32 follows:

33 **226.8 Persons with ~~mental-retardation~~ an intellectual**  
34 **disability not receivable — exception.**

35 **No A person who is ~~mentally-retarded~~ has an intellectual**

1 disability, as defined by in section ~~222.2~~ 4.1, shall not  
2 be admitted, or transferred pursuant to section 222.7, to a  
3 state mental health institute unless a professional diagnostic  
4 evaluation indicates that such person will benefit from  
5 psychiatric treatment or from some other specific program  
6 available at the mental health institute to which it is  
7 proposed to admit or transfer the person. Charges for the  
8 care of any person with ~~mental retardation~~ an intellectual  
9 disability admitted to a state mental health institute shall  
10 be made by the institute in the manner provided by chapter  
11 230, but the liability of any other person to any county for  
12 the cost of care of such person with ~~mental retardation~~ an  
13 intellectual disability shall be as prescribed by section  
14 222.78.

15 Sec. 76. Section 226.9C, subsection 2, paragraph a, Code  
16 Supplement 2011, is amended to read as follows:

17 a. A county may split the charges between the county's  
18 mental health, ~~mental retardation~~ intellectual disability, and  
19 developmental disabilities services fund created pursuant to  
20 section 331.424A and the county's budget for substance abuse  
21 expenditures.

22 Sec. 77. Section 227.2, subsections 1, 2, and 4, Code 2011,  
23 are amended to read as follows:

24 1. The director of inspections and appeals shall make,  
25 or cause to be made, at least one licensure inspection each  
26 year of every county care facility. Either the administrator  
27 of the division or the director of inspections and appeals,  
28 in cooperation with each other, upon receipt of a complaint  
29 or for good cause, may make, or cause to be made, a review  
30 of a county care facility or of any other private or county  
31 institution where persons with mental illness or ~~mental~~  
32 ~~retardation~~ an intellectual disability reside. A licensure  
33 inspection or a review shall be made by a competent and  
34 disinterested person who is acquainted with and interested in  
35 the care of persons with mental illness and persons with ~~mental~~

1 ~~retardation~~ an intellectual disability. The objective of a  
2 licensure inspection or a review shall be an evaluation of the  
3 programming and treatment provided by the facility. After each  
4 licensure inspection of a county care facility, the person who  
5 made the inspection shall consult with the county authorities  
6 on plans and practices that will improve the care given  
7 patients and shall make recommendations to the administrator of  
8 the division and the director of public health for coordinating  
9 and improving the relationships between the administrators of  
10 county care facilities, the administrator of the division, the  
11 director of public health, the superintendents of state mental  
12 health institutes and resource centers, community mental health  
13 centers, and other cooperating agencies, to cause improved  
14 and more satisfactory care of patients. A written report of  
15 each licensure inspection of a county care facility under this  
16 section shall be filed with the administrator of the division  
17 and the director of public health and shall include:

18     *a.* The capacity of the institution for the care of  
19 residents.

20     *b.* The number, sex, ages, and primary diagnoses of the  
21 residents.

22     *c.* The care of residents, their food, clothing, treatment  
23 plan, employment, and opportunity for recreational activities  
24 and for productive work intended primarily as therapeutic  
25 activity.

26     *d.* The number, job classification, sex, duties, and salaries  
27 of all employees.

28     *e.* The cost to the state or county of maintaining residents  
29 in a county care facility.

30     *f.* The recommendations given to and received from county  
31 authorities on methods and practices that will improve the  
32 conditions under which the county care facility is operated.

33     *g.* Any failure to comply with standards adopted under  
34 section 227.4 for care of persons with mental illness and  
35 persons with ~~mental-retardation~~ an intellectual disability in

1 county care facilities, which is not covered in information  
2 submitted pursuant to paragraphs "a" to "f", and any other  
3 matters which the director of public health, in consultation  
4 with the administrator of the division, may require.

5 2. A copy of the written report prescribed by subsection  
6 1 shall be furnished to the county board of supervisors, to  
7 the county mental health and ~~mental-retardation~~ intellectual  
8 disability coordinating board or to its advisory board if  
9 the county board of supervisors constitutes ex officio the  
10 coordinating board, to the administrator of the county care  
11 facility inspected and to its resident advocate committee, and  
12 to the department on aging.

13 4. In addition to the licensure inspections required or  
14 authorized by this section, the administrator of the division  
15 shall cause to be made an evaluation of each person cared for  
16 in a county care facility at least once each year by one or  
17 more qualified mental health, ~~mental-retardation~~ intellectual  
18 disability, or medical professionals, whichever is appropriate.

19 a. It is the responsibility of the state to secure the  
20 annual evaluation for each person who is on convalescent leave  
21 or who has not been discharged from a state mental health  
22 institute. It is the responsibility of the county to secure  
23 the annual evaluation for all other persons with mental illness  
24 in the county care facility.

25 b. It is the responsibility of the state to secure the  
26 annual evaluation for each person who is on leave and has  
27 not been discharged from a state resource center. It is the  
28 responsibility of the county to secure the annual evaluation  
29 for all other persons with ~~mental-retardation~~ an intellectual  
30 disability in the county care facility.

31 c. It is the responsibility of the county to secure an  
32 annual evaluation of each resident of a county care facility to  
33 whom neither paragraph "a" nor paragraph "b" is applicable.

34 Sec. 78. Section 227.4, Code 2011, is amended to read as  
35 follows:

1     **227.4 Standards for care of persons with mental illness or**  
2 **~~mental-retardation~~ an intellectual disability in county care**  
3 **facilities.**

4     The administrator, in cooperation with the department of  
5 inspections and appeals, shall recommend and the mental health  
6 and disability services commission created in section 225C.5  
7 shall adopt standards for the care of and services to persons  
8 with mental illness or ~~mental-retardation~~ an intellectual  
9 disability residing in county care facilities. The standards  
10 shall be enforced by the department of inspections and appeals  
11 as a part of the licensure inspection conducted pursuant to  
12 chapter 135C. The objective of the standards is to ensure  
13 that persons with mental illness or ~~mental-retardation~~ an  
14 intellectual disability who are residents of county care  
15 facilities are not only adequately fed, clothed, and housed,  
16 but are also offered reasonable opportunities for productive  
17 work and recreational activities suited to their physical and  
18 mental abilities and offering both a constructive outlet for  
19 their energies and, if possible, therapeutic benefit. When  
20 recommending standards under this section, the administrator  
21 shall designate an advisory committee representing  
22 administrators of county care facilities, county mental health  
23 and developmental disabilities regional planning councils, and  
24 county care facility resident advocate committees to assist in  
25 the establishment of standards.

26     Sec. 79. Section 227.6, Code 2011, is amended to read as  
27 follows:

28     **227.6 Removal of residents.**

29     If a county care facility fails to comply with rules and  
30 standards adopted under this chapter, the administrator may  
31 remove all persons with mental illness and all persons with  
32 ~~mental-retardation~~ an intellectual disability cared for in the  
33 county care facility at public expense, to the proper state  
34 mental health institute or resource center, or to some private  
35 or county institution or hospital for the care of persons

1 with mental illness or ~~mental-retardation~~ an intellectual  
2 disability that has complied with the rules prescribed by the  
3 administrator. Residents being transferred to a state mental  
4 health institute or resource center shall be accompanied by an  
5 attendant or attendants sent from the institute or resource  
6 center. If a resident is transferred under this section,  
7 at least one attendant shall be of the same sex. If the  
8 administrator finds that the needs of residents with mental  
9 illness and residents with ~~mental-retardation~~ an intellectual  
10 disability of any other county or private institution are not  
11 being adequately met, those residents may be removed from that  
12 institution upon order of the administrator.

13 Sec. 80. Section 229.1, subsection 9, Code Supplement 2011,  
14 is amended to read as follows:

15 9. "*Mental illness*" means every type of mental disease  
16 or mental disorder, except that it does not refer to  
17 ~~mental-retardation~~ intellectual disability as defined in  
18 section ~~222.2, subsection 5~~ 4.1, or to insanity, diminished  
19 responsibility, or mental incompetency as the terms are defined  
20 and used in the Iowa criminal code or in the rules of criminal  
21 procedure, Iowa court rules.

22 Sec. 81. Section 229.26, Code 2011, is amended to read as  
23 follows:

24 **229.26 Exclusive procedure for involuntary hospitalization.**

25 Sections 229.6 through 229.19 constitute the exclusive  
26 procedure for involuntary hospitalization of persons by reason  
27 of serious mental impairment in this state, except that this  
28 chapter does not negate the provisions of section 904.503  
29 relating to transfer of prisoners with mental illness to state  
30 hospitals for persons with mental illness and does not apply  
31 to commitments of persons under chapter 812 or the rules of  
32 criminal procedure, Iowa court rules, or negate the provisions  
33 of section 232.51 relating to disposition of children  
34 with mental illness or ~~mental-retardation~~ an intellectual  
35 disability.



1     Sec. 82. Section 230.33, Code 2011, is amended to read as  
2 follows:

3     **230.33 Reciprocal agreements.**

4     The administrator may enter into agreements with other  
5 states, through their duly constituted authorities, to effect  
6 the reciprocal return of persons with mental illness and  
7 persons with ~~mental retardation~~ an intellectual disability  
8 to the contracting states, and to effect the reciprocal  
9 supervision of persons on convalescent leave.

10    Provided that in the case of a proposed transfer of  
11 a person with mental illness or ~~mental retardation~~ an  
12 intellectual disability from this state that no final action  
13 be taken without the approval either of the commission of  
14 hospitalization, or of the district court, of the county of  
15 admission or commitment.

16    Sec. 83. Section 231.4, subsection 1, paragraph m, Code  
17 Supplement 2011, is amended to read as follows:

18     *m. "Resident"* means a resident or tenant of a long-term  
19 care facility, assisted living program, or elder group home,  
20 excluding facilities licensed primarily to serve persons  
21 with ~~mental retardation~~ an intellectual disability or mental  
22 illness.

23    Sec. 84. Section 231.42, subsection 2, paragraph a, Code  
24 2011, is amended to read as follows:

25     *a.* Establish and implement a statewide confidential  
26 uniform reporting system for receiving, analyzing, referring,  
27 investigating, and resolving complaints about administrative  
28 actions and the health, safety, welfare, and rights of  
29 residents or tenants of long-term care facilities, assisted  
30 living programs, and elder group homes, excluding facilities  
31 licensed primarily to serve persons with ~~mental retardation~~ an  
32 intellectual disability or mental illness.

33    Sec. 85. Section 232.51, subsection 2, Code Supplement  
34 2011, is amended to read as follows:

35     2. If the evidence received at an adjudicatory or a

1 dispositional hearing indicates that the child ~~is mentally~~  
2 ~~retarded~~ has an intellectual disability, the court may direct  
3 the juvenile court officer or the department to initiate  
4 proceedings or to assist the child's parent or guardian to  
5 initiate civil commitment proceedings in the juvenile court and  
6 such proceedings shall adhere to the requirements of chapter  
7 222.

8 Sec. 86. Section 232.51, subsection 3, paragraph a, Code  
9 Supplement 2011, is amended to read as follows:

10 a. If prior to the adjudicatory or dispositional hearing  
11 on the pending delinquency petition, the child is committed  
12 as a child with a mental illness or ~~mental retardation~~ an  
13 intellectual disability and is ordered into a residential  
14 facility, institution, or hospital for inpatient treatment,  
15 the delinquency proceeding shall be suspended until such time  
16 as the juvenile court either terminates the civil commitment  
17 order or the child is released from the residential facility,  
18 institution, or hospital for purposes of receiving outpatient  
19 treatment.

20 Sec. 87. Section 232.175, Code 2011, is amended to read as  
21 follows:

22 **232.175 Placement oversight.**

23 Placement oversight shall be provided pursuant to this  
24 division when the parent, guardian, or custodian of a child  
25 with ~~mental retardation~~ an intellectual disability or other  
26 developmental disability requests placement of the child  
27 in foster family care for a period of more than thirty  
28 days. The oversight shall be provided through review of  
29 the placement every six months by the department's foster  
30 care review committees or by a local citizen foster care  
31 review board. Court oversight shall be provided prior to the  
32 initial placement and at periodic intervals which shall not  
33 exceed twelve months. It is the purpose and policy of this  
34 division to assure the existence of oversight safeguards as  
35 required by the federal Child Welfare Act of 1980, Pub. L. No.

1 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B),  
2 and 675(1),(5), while maintaining parental decision-making  
3 authority.

4 Sec. 88. Section 232.178, subsection 4, Code 2011, is  
5 amended to read as follows:

6 4. The petition shall describe the child's emotional,  
7 physical, or intellectual disability which requires care and  
8 treatment; the reasonable efforts to maintain the child in  
9 the child's home; the department's request to the family of  
10 a child with ~~mental retardation~~ an intellectual disability,  
11 other developmental disability, or organic mental illness to  
12 determine if any services or support provided to the family  
13 will enable the family to continue to care for the child in the  
14 child's home; and the reason the child's parent, guardian, or  
15 custodian has requested a foster family care placement. The  
16 petition shall also describe the commitment of the parent,  
17 guardian, or custodian in fulfilling the responsibilities  
18 defined in the case permanency plan and how the placement will  
19 serve the child's best interests.

20 Sec. 89. Section 232.182, subsection 5, paragraph a,  
21 subparagraph (4), Code 2011, is amended to read as follows:

22 (4) A determination that services or support provided to  
23 the family of a child with ~~mental retardation~~ an intellectual  
24 disability, other developmental disability, or organic mental  
25 illness will not enable the family to continue to care for the  
26 child in the child's home.

27 Sec. 90. Section 233A.14, Code 2011, is amended to read as  
28 follows:

29 **233A.14 Transfers to other institutions.**

30 The administrator may transfer to the schools minor wards of  
31 the state from any institution under the administrator's charge  
32 but no person shall be so transferred who is mentally ill or  
33 ~~mentally retarded~~ has an intellectual disability. Any child  
34 in the schools who is mentally ill or ~~mentally retarded~~ has an  
35 intellectual disability may be transferred by the administrator

1 to the proper state institution.

2 Sec. 91. Section 233B.5, Code 2011, is amended to read as  
3 follows:

4 **233B.5 Transfers.**

5 The administrator may transfer to the home minor wards of the  
6 state from any institution under the administrator's charge or  
7 under the charge of any other administrator of the department  
8 of human services; but no person shall be so transferred who  
9 is a person with mental illness or ~~mental retardation~~ an  
10 intellectual disability, or who is incorrigible, or has any  
11 vicious habits, or whose presence in the home would be inimical  
12 to the moral or physical welfare of the other children within  
13 the home, and any such child in the home may be transferred to  
14 the proper state institution.

15 Sec. 92. Section 234.6, subsection 6, paragraph f, Code  
16 2011, is amended to read as follows:

17 f. Services or support provided to a child with ~~mental~~  
18 ~~retardation~~ an intellectual disability or other developmental  
19 disability or to the child's family.

20 Sec. 93. Section 235.1, subsection 3, Code 2011, is amended  
21 to read as follows:

22 3. "*Child welfare services*" means social welfare services  
23 for the protection and care of children who are homeless,  
24 dependent or neglected, or in danger of becoming delinquent, or  
25 who have a mental illness or ~~mental retardation~~ an intellectual  
26 disability or other developmental disability, including, when  
27 necessary, care and maintenance in a foster care facility.  
28 Child welfare services are designed to serve a child in the  
29 child's home whenever possible. If not possible, and the child  
30 is placed outside the child's home, the placement should be in  
31 the least restrictive setting available and in close proximity  
32 to the child's home.

33 Sec. 94. Section 235A.15, subsection 2, paragraph c,  
34 subparagraph (9), Code Supplement 2011, is amended to read as  
35 follows:

1 (9) To the administrator of an agency providing mental  
2 health, ~~mental-retardation~~ intellectual disability, or  
3 developmental disability services under a county management  
4 plan developed pursuant to section 331.439, if the data  
5 concerns a person employed by or being considered by the agency  
6 for employment.

7 Sec. 95. Section 235B.6, subsection 2, paragraph c,  
8 subparagraph (6), Code Supplement 2011, is amended to read as  
9 follows:

10 (6) To the administrator of an agency providing mental  
11 health, ~~mental-retardation~~ intellectual disability, or  
12 developmental disability services under a county management  
13 plan developed pursuant to section 331.439, if the information  
14 concerns a person employed by or being considered by the agency  
15 for employment.

16 Sec. 96. Section 249A.2, subsection 4, Code 2011, is amended  
17 to read as follows:

18 4. "*Discretionary medical assistance*" means medical  
19 assistance or additional medical assistance provided to  
20 individuals whose income and resources are in excess of  
21 eligibility limitations but are insufficient to meet all of the  
22 costs of necessary medical care and services, provided that if  
23 the assistance includes services in institutions for mental  
24 diseases or intermediate care facilities for persons with  
25 ~~mental-retardation~~ an intellectual disability, or both, for any  
26 group of such individuals, the assistance also includes for  
27 all covered groups of such individuals at least the care and  
28 services enumerated in Tit. XIX of the federal Social Security  
29 Act, section 1905(a), paragraphs (1) through (5), and (17),  
30 as codified in 42 U.S.C. § 1396d(a), pars. (1) through (5),  
31 and (17), or any seven of the care and services enumerated in  
32 Tit. XIX of the federal Social Security Act, section 1905(a),  
33 paragraphs (1) through (7) and (9) through (18), as codified in  
34 42 U.S.C. § 1396d(a), pars. (1) through (7), and (9) through  
35 (18).

1     Sec. 97. Section 249A.5, subsection 2, unnumbered paragraph  
2 1, Code 2011, is amended to read as follows:

3     The provision of medical assistance to an individual who  
4 is fifty-five years of age or older, or who is a resident of  
5 a nursing facility, intermediate care facility for persons  
6 with ~~mental retardation~~ an intellectual disability, or mental  
7 health institute, who cannot reasonably be expected to be  
8 discharged and return to the individual's home, creates a  
9 debt due the department from the individual's estate for all  
10 medical assistance provided on the individual's behalf, upon  
11 the individual's death.

12     Sec. 98. Section 249A.5, subsection 2, paragraph f,  
13 subparagraph (1), Code 2011, is amended to read as follows:

14     (1) If a debt is due under this subsection from the estate  
15 of a recipient, the administrator of the nursing facility,  
16 intermediate care facility for persons with ~~mental retardation~~  
17 an intellectual disability, or mental health institute in which  
18 the recipient resided at the time of the recipient's death, and  
19 the personal representative of the recipient, if applicable,  
20 shall report the death to the department within ten days of the  
21 death of the recipient.

22     Sec. 99. Section 249A.12, subsection 1, Code 2011, is  
23 amended to read as follows:

24     1. Assistance may be furnished under this chapter to an  
25 otherwise eligible recipient who is a resident of a health  
26 care facility licensed under chapter 135C and certified as an  
27 intermediate care facility for persons with ~~mental retardation~~  
28 an intellectual disability.

29     Sec. 100. Section 249A.12, subsection 4, paragraphs a and c,  
30 Code 2011, are amended to read as follows:

31     a. Effective July 1, 1995, the state shall be responsible  
32 for all of the nonfederal share of the costs of intermediate  
33 care facility for persons with ~~mental retardation~~ an  
34 intellectual disability services provided under medical  
35 assistance to minors. Notwithstanding subsection 2 and

1 contrary provisions of section 222.73, effective July 1, 1995,  
2 a county is not required to reimburse the department and shall  
3 not be billed for the nonfederal share of the costs of such  
4 services provided to minors.

5     *c.* Effective February 1, 2002, the state shall be  
6 responsible for all of the nonfederal share of the costs of  
7 intermediate care facility for persons with ~~mental retardation~~  
8 an intellectual disability services provided under medical  
9 assistance attributable to the assessment fee for intermediate  
10 care facilities for individuals with ~~mental retardation~~ an  
11 intellectual disability imposed pursuant to section 249A.21.  
12 Notwithstanding subsection 2, effective February 1, 2003, a  
13 county is not required to reimburse the department and shall  
14 not be billed for the nonfederal share of the costs of such  
15 services attributable to the assessment fee.

16     Sec. 101. Section 249A.12, subsection 5, Code 2011, is  
17 amended to read as follows:

18     5. *a.* The mental health and disability services commission  
19 shall recommend to the department the actions necessary to  
20 assist in the transition of individuals being served in an  
21 intermediate care facility for persons with ~~mental retardation~~  
22 an intellectual disability, who are appropriate for the  
23 transition, to services funded under a medical assistance  
24 home and community-based services waiver for persons with  
25 intellectual disabilities in a manner which maximizes the use  
26 of existing public and private facilities. The actions may  
27 include but are not limited to submitting any of the following  
28 or a combination of any of the following as a request for a  
29 revision of the medical assistance home and community-based  
30 services waiver for persons with intellectual disabilities:

31     (1) Allow for the transition of intermediate care  
32 facilities for persons with ~~mental retardation~~ an intellectual  
33 disability licensed under chapter 135C, to services funded  
34 under the medical assistance home and community-based services  
35 waiver for persons with intellectual disabilities. The request

1 shall be for inclusion of additional persons under the waiver  
2 associated with the transition.

3 (2) Allow for reimbursement under the waiver for day program  
4 or other service costs.

5 (3) Allow for exception provisions in which an intermediate  
6 care facility for persons with ~~mental retardation~~ an  
7 intellectual disability which does not meet size and other  
8 facility-related requirements under the waiver in effect on  
9 June 30, 1996, may convert to a waiver service for a set period  
10 of time such as five years. Following the set period of time,  
11 the facility would be subject to the waiver requirements  
12 applicable to services which were not operating under the  
13 exception provisions.

14 b. In implementing the provisions of this subsection, the  
15 mental health and disability services commission shall consult  
16 with other states. The waiver revision request or other action  
17 necessary to assist in the transition of service provision  
18 from intermediate care facilities for persons with ~~mental~~  
19 ~~retardation~~ an intellectual disability to alternative programs  
20 shall be implemented by the department in a manner that can  
21 appropriately meet the needs of individuals at an overall  
22 lower cost to counties, the federal government, and the state.  
23 In addition, the department shall take into consideration  
24 significant federal changes to the medical assistance program  
25 in formulating the department's actions under this subsection.  
26 The department shall consult with the mental health and  
27 disability services commission in adopting rules for oversight  
28 of facilities converted pursuant to this subsection. A  
29 transition approach described in paragraph "a" may be modified  
30 as necessary to obtain federal waiver approval.

31 Sec. 102. Section 249A.12, subsection 6, paragraphs a and d,  
32 Code 2011, are amended to read as follows:

33 a. The provisions of the home and community-based services  
34 waiver for persons with an intellectual disabilities disability  
35 shall include adult day care, prevocational, and transportation



1 services. Transportation shall be included as a separately  
2 payable service.

3 d. The county of legal settlement shall pay for one hundred  
4 percent of the nonfederal share of the costs of care provided  
5 for adults which is reimbursed under a home and community-based  
6 services waiver that would otherwise be approved for provision  
7 in an intermediate care facility for persons with ~~mental~~  
8 ~~retardation~~ an intellectual disability provided under the  
9 medical assistance program.

10 Sec. 103. Section 249A.12, subsections 7 and 8, Code 2011,  
11 are amended to read as follows:

12 7. When paying the necessary and legal expenses for  
13 intermediate care facility for persons with ~~mental-retardation~~  
14 an intellectual disability services, the cost requirements of  
15 section 222.60 shall be considered fulfilled when payment is  
16 made in accordance with the medical assistance payment rates  
17 established by the department for intermediate care facilities  
18 for persons with ~~mental-retardation~~ an intellectual disability,  
19 and the state or a county of legal settlement shall not be  
20 obligated for any amount in excess of the rates.

21 8. If a person with ~~mental-retardation~~ an intellectual  
22 disability has no legal settlement or the legal settlement is  
23 unknown so that the person is deemed to be a state case and  
24 services associated with the ~~mental-retardation~~ intellectual  
25 disability can be covered under a medical assistance home and  
26 community-based services waiver or other medical assistance  
27 program provision, the nonfederal share of the medical  
28 assistance program costs for such coverage shall be paid from  
29 the appropriation made for the medical assistance program.

30 Sec. 104. Section 249A.21, subsections 1 and 6, Code 2011,  
31 are amended to read as follows:

32 1. The department may assess intermediate care facilities  
33 for persons with ~~mental-retardation~~ an intellectual disability,  
34 as defined in section 135C.1, a fee in an amount not to exceed  
35 six percent of the total annual revenue of the facility for the

1 preceding fiscal year.

2 6. The department may adopt administrative rules under  
3 section 17A.4, subsection 3, and section 17A.5, subsection 2,  
4 paragraph "b", to implement this section, and any fee assessed  
5 pursuant to this section against an intermediate care facility  
6 for persons with ~~mental retardation~~ an intellectual disability  
7 that is operated by the state may be made retroactive to  
8 October 1, 2003.

9 Sec. 105. Section 249A.26, subsection 2, paragraph a, Code  
10 2011, is amended to read as follows:

11 a. Except as provided for disallowed costs in section  
12 249A.27, the county of legal settlement shall pay for fifty  
13 percent of the nonfederal share of the cost and the state  
14 shall have responsibility for the remaining fifty percent of  
15 the nonfederal share of the cost of case management provided  
16 to adults, day treatment, and partial hospitalization provided  
17 under the medical assistance program for persons with ~~mental~~  
18 ~~retardation~~ an intellectual disability, a developmental  
19 disability, or chronic mental illness. For purposes of  
20 this section, persons with mental disorders resulting from  
21 Alzheimer's disease or substance abuse shall not be considered  
22 chronically mentally ill. To the maximum extent allowed under  
23 federal law and regulations, the department shall consult with  
24 and inform a county of legal settlement's central point of  
25 coordination process, as defined in section 331.440, regarding  
26 the necessity for and the provision of any service for which  
27 the county is required to provide reimbursement under this  
28 subsection.

29 Sec. 106. Section 249A.26, subsections 3, 7, and 9, Code  
30 2011, are amended to read as follows:

31 3. To the maximum extent allowed under federal law and  
32 regulations, a person with mental illness or ~~mental retardation~~  
33 an intellectual disability shall not be eligible for any  
34 service which is funded in whole or in part by a county share of  
35 the nonfederal portion of medical assistance funds unless the

1 person is referred through the central point of coordination  
2 process, as defined in section 331.440. However, to the  
3 extent federal law allows referral of a medical assistance  
4 recipient to a service without approval of the central point of  
5 coordination process, the county of legal settlement shall be  
6 billed for the nonfederal share of costs for any adult person  
7 for whom the county would otherwise be responsible.

8 7. Unless a county has paid or is paying for the nonfederal  
9 share of the costs of a person's home and community-based  
10 waiver services or placement in an intermediate care  
11 facility for persons with ~~mental retardation~~ an intellectual  
12 disability under the county's mental health, ~~mental retardation~~  
13 intellectual disability, and developmental disabilities  
14 services fund, or unless a county of legal settlement would  
15 become liable for the costs of services for a person at the  
16 level of care provided in an intermediate care facility for  
17 persons with ~~mental retardation~~ an intellectual disability due  
18 to the person reaching the age of majority, the state shall pay  
19 for the nonfederal share of the costs of an eligible person's  
20 services under the home and community-based services waiver for  
21 persons with brain injury.

22 9. Notwithstanding section 8.39, the department may  
23 transfer funds appropriated for the medical assistance program  
24 to a separate account established in the department's case  
25 management unit in an amount necessary to pay for expenditures  
26 required to provide case management for mental health,  
27 ~~mental retardation~~ intellectual disability, and developmental  
28 disabilities services under the medical assistance program  
29 which are jointly funded by the state and county, pending final  
30 settlement of the expenditures. Funds received by the case  
31 management unit in settlement of the expenditures shall be used  
32 to replace the transferred funds and are available for the  
33 purposes for which the funds were originally appropriated.

34 Sec. 107. Section 249A.30A, Code Supplement 2011, is  
35 amended to read as follows:

1     **249A.30A Medical assistance — personal needs allowance.**

2     The personal needs allowance under the medical assistance  
3 program, which may be retained by a person who is a resident of  
4 a nursing facility, an intermediate care facility for persons  
5 with ~~mental retardation~~ an intellectual disability, or an  
6 intermediate care facility for persons with mental illness, as  
7 defined in section 135C.1, or a person who is a resident of  
8 a psychiatric medical institution for children as defined in  
9 section 135H.1, shall be fifty dollars per month. A resident  
10 who has income of less than fifty dollars per month shall  
11 receive a supplement from the state in the amount necessary to  
12 receive a personal needs allowance of fifty dollars per month,  
13 if funding is specifically appropriated for this purpose.

14     Sec. 108. Section 249A.31, subsection 1, Code 2011, is  
15 amended to read as follows:

16     1. Providers of individual case management services for  
17 persons with ~~mental retardation~~ an intellectual disability,  
18 a developmental disability, or chronic mental illness shall  
19 receive cost-based reimbursement for one hundred percent of  
20 the reasonable costs for the provision of the services in  
21 accordance with standards adopted by the mental health and  
22 disability services commission pursuant to section 225C.6.

23     Sec. 109. Section 252.16, subsection 6, paragraph c, Code  
24 2011, is amended to read as follows:

25     c. A blind person who is an inpatient or resident of, is  
26 supported by, or is receiving treatment or support services  
27 from a state resource center created under chapter 222, a  
28 state mental health institute created under chapter 226, the  
29 Iowa braille and sight saving school administered by the state  
30 board of regents, or any community-based provider of treatment  
31 or services for ~~mental retardation~~ intellectual disability,  
32 developmental disabilities, mental health, or substance abuse,  
33 does not acquire legal settlement in the county in which the  
34 institution, facility, or provider is located, unless the blind  
35 person has resided in the county in which the institution,

1 facility, or provider is located for a period of six months  
2 prior to the date of commencement of receipt of assistance  
3 under the laws of this state or for a period of six months  
4 subsequent to the date of termination of assistance under the  
5 laws of this state.

6 Sec. 110. Section 252.16, subsection 8, Code 2011, is  
7 amended to read as follows:

8 8. A person receiving treatment or support services from  
9 any provider, whether organized for pecuniary profit or not or  
10 whether supported by charitable or public or private funds,  
11 that provides treatment or services for ~~mental retardation~~  
12 intellectual disability, developmental disabilities, mental  
13 health, brain injury, or substance abuse does not acquire legal  
14 settlement in a county unless the person continuously resides  
15 in that county for one year from the date of the last treatment  
16 or support service received by the person.

17 Sec. 111. Section 262.70, Code 2011, is amended to read as  
18 follows:

19 **262.70 Education, prevention, and research programs in mental**  
20 **health and disability services.**

21 The division of mental health and disability services of  
22 the department of human services may contract with the board  
23 of regents or any institution under the board's jurisdiction  
24 to establish and maintain programs of education, prevention,  
25 and research in the fields of mental health, ~~mental retardation~~  
26 intellectual disability, developmental disabilities, and  
27 brain injury. The board may delegate responsibility for these  
28 programs to the state psychiatric hospital, the university  
29 hospital, or any other appropriate entity under the board's  
30 jurisdiction.

31 Sec. 112. Section 263.11, subsection 2, Code 2011, is  
32 amended to read as follows:

33 2. Persons who are not eligible for admission to the schools  
34 already established for persons with ~~mental retardation~~ an  
35 intellectual disability or epilepsy or persons who are deaf or

1 blind.

2 Sec. 113. Section 331.381, subsection 4, Code 2011, is  
3 amended to read as follows:

4 4. Comply with chapter 222, including but not limited to  
5 sections 222.13, 222.14, and 222.59 to 222.82, in regard to  
6 the care of persons with ~~mental-retardation~~ an intellectual  
7 disability.

8 Sec. 114. Section 331.424A, subsections 1, 2, and 5, Code  
9 Supplement 2011, are amended to read as follows:

10 1. For the purposes of this chapter, unless the context  
11 otherwise requires, "*services fund*" means the county mental  
12 health, ~~mental-retardation~~ intellectual disability, and  
13 developmental disabilities services fund created in subsection  
14 2. The county finance committee created in section 333A.2  
15 shall consult with the state commission in adopting rules and  
16 prescribing forms for administering the services fund.

17 2. For the fiscal year beginning July 1, 1996, and  
18 succeeding fiscal years, county revenues from taxes and other  
19 sources designated for mental health, ~~mental-retardation~~  
20 intellectual disability, and developmental disabilities  
21 services shall be credited to the mental health, ~~mental-~~  
22 ~~retardation~~ intellectual disability, and developmental  
23 disabilities services fund of the county. The board shall make  
24 appropriations from the fund for payment of services provided  
25 under the county management plan approved pursuant to section  
26 331.439. The county may pay for the services in cooperation  
27 with other counties by pooling appropriations from the fund  
28 with other counties or through county regional entities  
29 including but not limited to the county's mental health and  
30 developmental disabilities regional planning council created  
31 pursuant to section 225C.18.

32 5. Appropriations specifically authorized to be made from  
33 the mental health, ~~mental-retardation~~ intellectual disability,  
34 and developmental disabilities services fund shall not be made  
35 from any other fund of the county.

1     Sec. 115. Section 331.432, subsection 3, Code Supplement  
2 2011, is amended to read as follows:

3     3. Except as authorized in section 331.477, transfers of  
4 moneys between the county mental health, ~~mental-retardation~~  
5 intellectual disability, and developmental disabilities  
6 services fund and any other fund are prohibited.

7     Sec. 116. Section 331.438, subsection 1, paragraphs a and b,  
8 Code Supplement 2011, are amended to read as follows:

9     *a. "Base year expenditures"* means the amount selected by a  
10 county and reported to the county finance committee pursuant  
11 to this paragraph. The amount selected shall be equal to the  
12 amount of net expenditures made by the county for qualified  
13 mental health, ~~mental-retardation~~ intellectual disability, and  
14 developmental disabilities services provided in one of the  
15 following:

16     (1) The actual amount reported to the state on October 15,  
17 1994, for the fiscal year beginning July 1, 1993.

18     (2) The net expenditure amount contained in the county's  
19 final budget certified in accordance with chapter 24 for the  
20 fiscal year beginning July 1, 1995, and reported to the county  
21 finance committee.

22     *b. "Qualified mental health, ~~mental-retardation~~ intellectual*  
23 *disability, and developmental disabilities services"* means the  
24 services specified in the rules adopted by the state commission  
25 for administering the services fund, pursuant to section  
26 331.424A.

27     Sec. 117. Section 331.438, subsection 4, paragraph a, Code  
28 Supplement 2011, is amended to read as follows:

29     *a.* The state commission shall make recommendations and take  
30 actions for joint state and county planning, implementing,  
31 and funding of mental health, ~~mental-retardation~~ intellectual  
32 disability or other developmental disabilities, and brain  
33 injury services, including but not limited to developing and  
34 implementing fiscal and accountability controls, establishing  
35 management plans, and ensuring that eligible persons have

1 access to appropriate and cost-effective services.

2 Sec. 118. Section 331.438, subsection 4, paragraph b,  
3 subparagraph (6), Code Supplement 2011, is amended to read as  
4 follows:

5 (6) Consider recommendations for measuring and improving  
6 the quality of state and county mental health, ~~mental~~  
7 ~~retardation~~ intellectual disability, and developmental  
8 disabilities services and other support.

9 Sec. 119. Section 331.439, subsection 1, paragraphs a, b,  
10 and f, Code Supplement 2011, are amended to read as follows:

11 a. The county accurately reported by December 1 the county's  
12 expenditures for mental health, ~~mental-retardation~~ intellectual  
13 disability, and developmental disabilities services and the  
14 information required under section 225C.6A, subsection 3,  
15 paragraph "c", for the previous fiscal year in accordance with  
16 rules adopted by the state commission. If the department  
17 determines good cause exists, the department may extend a  
18 deadline otherwise imposed under this chapter, chapter 225C, or  
19 chapter 426B for a county's reporting concerning mental health,  
20 ~~mental-retardation~~ intellectual disability, or developmental  
21 disabilities services or related revenues and expenditures.

22 b. The county developed and implemented a county management  
23 plan for the county's mental health, ~~mental-retardation~~  
24 intellectual disability, and developmental disabilities  
25 services system in accordance with the provisions of this  
26 paragraph "b". The plan shall comply with the administrative  
27 rules adopted for this purpose by the state commission and is  
28 subject to the approval of the director of human services in  
29 consultation with the state commission. The plan shall include  
30 a description of the county's service management provision for  
31 mental health, ~~mental-retardation~~ intellectual disability, and  
32 developmental disabilities services. For ~~mental-retardation~~  
33 intellectual disability and developmental disabilities service  
34 management, the plan shall describe the county's development  
35 and implementation of a system of cost-effective individualized



1 services and shall comply with the provisions of paragraph  
2 "f". The goal of this part of the plan shall be to assist  
3 the individuals served to be as independent, productive,  
4 and integrated into the community as possible. The service  
5 management provisions for mental health shall comply with the  
6 provisions of paragraph "e". A county is subject to all of the  
7 following provisions in regard to the county's services system  
8 management plan and planning process:

9 (1) The county shall have in effect an approved policies and  
10 procedures manual for the county's services fund. The county  
11 management plan shall be defined in the manual. The manual  
12 submitted by the county as part of the county's management plan  
13 for the fiscal year beginning July 1, 2000, as approved by the  
14 director of human services, shall remain in effect, subject to  
15 amendment. An amendment to the manual shall be submitted to  
16 the department of human services at least forty-five days prior  
17 to the date of implementation. Prior to implementation of any  
18 amendment to the manual, the amendment must be approved by  
19 the director of human services in consultation with the state  
20 commission.

21 (2) For informational purposes, the county shall submit a  
22 management plan review to the department of human services by  
23 December 1 of each year. The annual review shall incorporate  
24 an analysis of the data associated with the services system  
25 managed during the preceding fiscal year by the county or by  
26 a private entity on behalf of the county. The annual review  
27 shall also identify measurable outcomes and results showing  
28 the county's progress in fulfilling the purposes listed  
29 in paragraph "c", and in achieving the disability services  
30 outcomes and indicators identified by the commission pursuant  
31 to section 225C.6.

32 (3) For informational purposes, every three years the  
33 county shall submit to the department of human services  
34 a three-year strategic plan. The strategic plan shall  
35 describe how the county will proceed to attain the plan's

1 goals and objectives, and the measurable outcomes and results  
2 necessary for moving the county's services system toward  
3 an individualized, community-based focus in accordance  
4 with paragraph "c". The three-year strategic plan shall be  
5 submitted by April 1, 2000, and by April 1 of every third year  
6 thereafter.

7 *f.* For ~~mental retardation~~ intellectual disability and  
8 developmental disabilities services management, the county must  
9 either develop and implement a system of care which addresses a  
10 full array of appropriate services and cost-effective delivery  
11 of services by contracting directly with service providers  
12 or by contracting with a state-approved private entity to  
13 manage the county services system. The county services system  
14 shall incorporate a central point of coordination and clinical  
15 assessment process developed in accordance with the provisions  
16 of section 331.440. The elements of a county services system  
17 shall be specified in rules developed by the department of  
18 human services in consultation with and adopted by the state  
19 commission.

20 Sec. 120. Section 331.439, subsection 3, paragraph a, Code  
21 Supplement 2011, is amended to read as follows:

22 *a.* For the fiscal year beginning July 1, 1996, and  
23 succeeding fiscal years, the county's mental health, ~~mental~~  
24 ~~retardation~~ intellectual disability, and developmental  
25 disabilities service expenditures for a fiscal year are limited  
26 to a fixed budget amount. The fixed budget amount shall be  
27 the amount identified in the county's management plan and  
28 budget for the fiscal year. The county shall be authorized an  
29 allowed growth factor adjustment as established by statute for  
30 services paid from the county's services fund under section  
31 331.424A which is in accordance with the county's management  
32 plan and budget, implemented pursuant to this section. The  
33 statute establishing the allowed growth factor adjustment shall  
34 establish the adjustment for the fiscal year which commences  
35 two years from the beginning date of the fiscal year in

1 progress at the time the statute is enacted.

2 Sec. 121. Section 331.439, subsection 6, Code Supplement  
3 2011, is amended to read as follows:

4 6. The director's approval of a county's mental health,  
5 ~~mental-retardation~~ intellectual disability, and developmental  
6 disabilities services management plan shall not be construed to  
7 constitute certification of the county's budget.

8 Sec. 122. Section 331.440, subsection 1, paragraphs a and b,  
9 Code Supplement 2011, are amended to read as follows:

10 a. For the purposes of this section, unless the context  
11 otherwise requires, "*central point of coordination process*"  
12 means a central point of coordination process established  
13 by a county or consortium of counties for the delivery of  
14 mental health, ~~mental-retardation~~ intellectual disability, and  
15 developmental disabilities services which are paid for in whole  
16 or in part by county funds. The central point of coordination  
17 process may include but is not limited to reviewing a person's  
18 eligibility for services, determining the appropriateness of  
19 the type, level, and duration of services, and performing  
20 periodic review of the person's continuing eligibility and  
21 need for services. Any recommendations developed concerning  
22 a person's plan of services shall be consistent with the  
23 person's unique strengths, circumstances, priorities, concerns,  
24 abilities, and capabilities. For those services funded  
25 under the medical assistance program, the central point of  
26 coordination process shall be used to assure that the person  
27 is aware of the appropriate service options available to the  
28 person.

29 b. The central point of coordination process may include  
30 a clinical assessment process to identify a person's service  
31 needs and to make recommendations regarding the person's plan  
32 for services. The clinical assessment process shall utilize  
33 qualified mental health professionals and qualified ~~mental~~  
34 ~~retardation~~ intellectual disability professionals.

35 Sec. 123. Section 331.440, subsection 2, paragraph d, Code

1 Supplement 2011, is amended to read as follows:

2     *d. "State case services and other support"* means the mental  
3 health, ~~mental-retardation~~ intellectual disability, and  
4 developmental disabilities services and other support paid for  
5 under the rules and requirements in effect prior to October 1,  
6 2006, from the annual appropriation made to the department of  
7 human services for such services and other support provided  
8 to persons who have no established county of legal settlement  
9 or the legal settlement is unknown so that the person is  
10 deemed to be a state case. Such services and other support do  
11 not include medical assistance program services or services  
12 provided in a state institution.

13     Sec. 124. Section 331.502, subsection 11, Code 2011, is  
14 amended to read as follows:

15     11. Carry out duties relating to the determination of legal  
16 settlement, collection of funds due the county, and support of  
17 persons with ~~mental-retardation~~ an intellectual disability as  
18 provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69,  
19 and 222.74.

20     Sec. 125. Section 331.756, subsections 42 and 43, Code  
21 Supplement 2011, are amended to read as follows:

22     42. Carry out duties relating to the commitment of a person  
23 with ~~mental-retardation~~ an intellectual disability as provided  
24 in section 222.18.

25     43. Proceed to collect, as requested by the county,  
26 the reasonable costs for the care, treatment, training,  
27 instruction, and support of a person with ~~mental-retardation~~  
28 an intellectual disability from parents or other persons who  
29 are legally liable for the support of the person with ~~mental~~  
30 ~~retardation~~ an intellectual disability as provided in section  
31 222.82.

32     Sec. 126. Section 335.25, subsection 2, paragraph b,  
33 subparagraphs (1) and (2), Code 2011, are amended to read as  
34 follows:

35     (1) Attributable to ~~mental-retardation~~ an intellectual

1 disability, cerebral palsy, epilepsy, or autism.

2 (2) Attributable to any other condition found to be closely  
3 related to ~~mental-retardation~~ an intellectual disability  
4 because the condition results in impairment of general  
5 intellectual functioning or adaptive behavior similar to that  
6 of persons with ~~mental-retardation~~ an intellectual disability  
7 or requires treatment and services similar to those required  
8 for the persons.

9 Sec. 127. Section 347.9A, subsection 3, Code 2011, is  
10 amended to read as follows:

11 3. This section does not prohibit a licensed health  
12 care practitioner from serving as a hospital trustee if the  
13 practitioner's sole use of the county hospital is to provide  
14 health care service to an individual with ~~mental-retardation~~ an  
15 intellectual disability as defined in section ~~222.2~~ 4.1.

16 Sec. 128. Section 414.22, subsection 2, paragraph b,  
17 subparagraphs (1) and (2), Code 2011, are amended to read as  
18 follows:

19 (1) Attributable to ~~mental-retardation~~ an intellectual  
20 disability, cerebral palsy, epilepsy, or autism.

21 (2) Attributable to any other condition found to be closely  
22 related to ~~mental-retardation~~ an intellectual disability  
23 because the condition results in impairment of general  
24 intellectual functioning or adaptive behavior similar to that  
25 of persons with ~~mental-retardation~~ an intellectual disability  
26 or requires treatment and services similar to those required  
27 for the persons.

28 Sec. 129. Section 422.7, subsection 12, paragraph c,  
29 subparagraph (1), Code Supplement 2011, is amended to read as  
30 follows:

31 (1) "*Physical or mental impairment*" means any physiological  
32 disorder or condition, cosmetic disfigurement, or anatomical  
33 loss affecting one or more of the body systems or any mental  
34 or psychological disorder, including ~~mental-retardation~~  
35 intellectual disability, organic brain syndrome, emotional or

1 mental illness and specific learning disabilities.

2     Sec. 130. Section 422.35, subsection 6, paragraph c,  
3 subparagraph (1), Code Supplement 2011, is amended to read as  
4 follows:

5     (1) "*Physical or mental impairment*" means any physiological  
6 disorder or condition, cosmetic disfigurement, or anatomical  
7 loss affecting one or more of the body systems or any mental  
8 or psychological disorder, including ~~mental retardation~~  
9 intellectual disability, organic brain syndrome, emotional or  
10 mental illness, and specific learning disabilities.

11     Sec. 131. Section 423.3, subsection 18, paragraphs a and c,  
12 Code Supplement 2011, are amended to read as follows:

13     a. Residential care facilities and intermediate care  
14 facilities for persons with ~~mental retardation~~ an intellectual  
15 disability and residential care facilities for persons with  
16 mental illness licensed by the department of inspections and  
17 appeals under chapter 135C.

18     c. Rehabilitation facilities that provide accredited  
19 rehabilitation services to persons with disabilities which are  
20 accredited by the commission on accreditation of rehabilitation  
21 facilities or the accreditation council for services for  
22 persons with ~~mental retardation~~ an intellectual disability  
23 and other persons with developmental disabilities and adult  
24 day care services approved for reimbursement by the state  
25 department of human services.

26     Sec. 132. Section 426B.2, subsection 3, paragraph b, Code  
27 2011, is amended to read as follows:

28     b. Any replacement generation tax in the property tax relief  
29 fund as of May 1 shall be paid to the county treasurers in July  
30 and January of the fiscal year beginning the following July 1.  
31 The department of management shall determine the amount each  
32 county will be paid pursuant to this lettered paragraph for  
33 the following fiscal year. The department shall reduce by the  
34 determined amount the amount of each county's certified budget  
35 to be raised by property tax for that fiscal year which is to

1 be expended for mental health, ~~mental-retardation~~ intellectual  
2 disability, and developmental disabilities services and  
3 shall revise the rate of taxation as necessary to raise the  
4 reduced amount. The department of management shall report  
5 the reduction in the certified budget and the revised rate of  
6 taxation to the county auditors by June 15.

7 Sec. 133. Section 426B.3, subsection 1, Code 2011, is  
8 amended to read as follows:

9 1. The county auditor shall reduce the certified budget  
10 amount received from the board of supervisors for the  
11 succeeding fiscal year for the county mental health, ~~mental-~~  
12 ~~retardation~~ intellectual disability, and developmental  
13 disabilities services fund created in section 331.424A by an  
14 amount equal to the amount the county will receive from the  
15 property tax relief fund pursuant to section 426B.2, for the  
16 succeeding fiscal year and the auditor shall determine the rate  
17 of taxation necessary to raise the reduced amount. On the tax  
18 list, the county auditor shall compute the amount of taxes due  
19 and payable on each parcel before and after the amount received  
20 from the property tax relief fund is used to reduce the county  
21 budget. The director of human services shall notify the county  
22 auditor of each county of the amount of moneys the county will  
23 receive from the property tax relief fund pursuant to section  
24 426B.2, for the succeeding fiscal year.

25 Sec. 134. Section 426B.5, subsection 1, paragraph d,  
26 subparagraph (1), subparagraph divisions (a) and (b), Code  
27 Supplement 2011, are amended to read as follows:

28 (a) The county is levying the maximum amount allowed for  
29 the county's mental health, ~~mental-retardation~~ intellectual  
30 disability, and developmental disabilities services fund under  
31 section 331.424A for the fiscal year in which the funding is  
32 distributed.

33 (b) In the latest fiscal year reported in accordance with  
34 section 331.403, the county's mental health, ~~mental-retardation~~  
35 intellectual disability, and developmental disabilities

1 services fund ending balance under generally accepted  
2 accounting principles was equal to or less than twenty-five  
3 percent of the county's actual gross expenditures for that  
4 fiscal year.

5 Sec. 135. Section 426B.5, subsection 2, paragraph a, Code  
6 Supplement 2011, is amended to read as follows:

7 a. For the purposes of this subsection, unless the context  
8 otherwise requires, "*services fund*" means a county's mental  
9 health, ~~mental retardation~~ intellectual disability, and  
10 developmental disabilities services fund created in section  
11 331.424A.

12 Sec. 136. Section 514E.7, subsection 2, paragraph a,  
13 subparagraph (1), Code 2011, is amended to read as follows:

14 (1) Incapable of self-sustaining employment by reason  
15 of ~~mental retardation~~ an intellectual disability or physical  
16 disability.

17 Sec. 137. Section 602.8102, subsections 36 and 37, Code  
18 2011, are amended to read as follows:

19 36. Carry out duties relating to the commitment of a person  
20 with ~~mental retardation~~ an intellectual disability as provided  
21 in sections 222.37 through 222.40.

22 37. Keep a separate docket of proceedings of cases relating  
23 to persons with ~~mental retardation~~ an intellectual disability  
24 as provided in section 222.57.

25 Sec. 138. Section 633.556, subsection 1, Code 2011, is  
26 amended to read as follows:

27 1. If the allegations of the petition as to the status of  
28 the proposed ward and the necessity for the appointment of  
29 a guardian are proved by clear and convincing evidence, the  
30 court may appoint a guardian. If the court appoints a guardian  
31 based upon mental incapacity of the proposed ward because  
32 the proposed ward is a person ~~described in section 222.2,~~  
33 ~~subsection 5~~ with an intellectual disability, as defined in  
34 section 4.1, the court shall make a separate determination as  
35 to the ward's competency to vote. The court shall find a ward



1 incompetent to vote only upon determining that the person lacks  
2 sufficient mental capacity to comprehend and exercise the right  
3 to vote.

4 Sec. 139. Section 633C.1, subsection 4, Code 2011, is  
5 amended to read as follows:

6 4. "*Maximum monthly medical assistance payment rate for*  
7 *services in an intermediate care facility for persons with mental*  
8 *retardation an intellectual disability*" means the allowable  
9 rate established by the department of human services and as  
10 published in the Iowa administrative bulletin.

11 Sec. 140. Section 633C.3, subsection 3, paragraph a, Code  
12 2011, is amended to read as follows:

13 a. For a beneficiary who meets the medical assistance level  
14 of care requirements for services in an intermediate care  
15 facility for persons with ~~mental retardation~~ an intellectual  
16 disability and who either resides in an intermediate care  
17 facility for persons with ~~mental retardation~~ an intellectual  
18 disability or is eligible for services under the medical  
19 assistance home and community-based services waiver except  
20 that the beneficiary's income exceeds the allowable maximum,  
21 the applicable rate is the maximum monthly medical assistance  
22 payment rate for services in an intermediate care facility for  
23 persons with ~~mental retardation~~ an intellectual disability.

24 Sec. 141. Section 904.108, subsection 1, paragraph d, Code  
25 2011, is amended to read as follows:

26 d. Establish and maintain acceptable standards of treatment,  
27 training, education, and rehabilitation in the various  
28 state penal and corrective institutions which shall include  
29 habilitative services and treatment for offenders with ~~mental~~  
30 ~~retardation~~ an intellectual disability. For the purposes of  
31 this paragraph, "*habilitative services and treatment*" means  
32 medical, mental health, social, educational, counseling,  
33 and other services which will assist a person with ~~mental~~  
34 ~~retardation~~ an intellectual disability to become self-reliant.  
35 However, the director may also provide rehabilitative treatment

1 and services to other persons who require the services.  
2 The director shall identify all individuals entering the  
3 correctional system who are persons with ~~mental retardation~~  
4 an intellectual disability, as defined in section ~~222.2,~~  
5 ~~subsection 5~~ 4.1. Identification shall be made by a qualified  
6 professional in the area of ~~mental retardation~~ intellectual  
7 disability. In assigning an offender with ~~mental retardation~~  
8 an intellectual disability, or an offender with an inadequately  
9 developed intelligence or with impaired mental abilities, to  
10 a correctional facility, the director shall consider both the  
11 program needs and the security needs of the offender. The  
12 director shall consult with the department of human services  
13 in providing habilitative services and treatment to offenders  
14 with mental illness or ~~mental retardation~~ an intellectual  
15 disability. The director may enter into agreements with  
16 the department of human services to utilize mental health  
17 institutions and share staff and resources for purposes of  
18 providing habilitative services and treatment, as well as  
19 providing other special needs programming. Any agreement to  
20 utilize mental health institutions and to share staff and  
21 resources shall provide that the costs of the habilitative  
22 services and treatment shall be paid from state funds. Not  
23 later than twenty days prior to entering into any agreement  
24 to utilize mental health institution staff and resources,  
25 other than the use of a building or facility, for purposes of  
26 providing habilitative services and treatment, as well as other  
27 special needs programming, the directors of the departments  
28 of corrections and human services shall each notify the  
29 chairpersons and ranking members of the joint appropriations  
30 subcommittees that last handled the appropriation for their  
31 respective departments of the pending agreement. Use of a  
32 building or facility shall require approval of the general  
33 assembly if the general assembly is in session or, if the  
34 general assembly is not in session, the legislative council  
35 may grant temporary authority, which shall be subject to final

1 approval of the general assembly during the next succeeding  
2 legislative session.

3 Sec. 142. Section 904.205, Code 2011, is amended to read as  
4 follows:

5 **904.205 Clarinda correctional facility.**

6 The state correctional facility at Clarinda shall be  
7 utilized as a secure men's correctional facility primarily  
8 for offenders with chemical dependence, ~~mental retardation~~ an  
9 intellectual disability, or mental illness.

10 Sec. 143. Section 915.38, subsections 1 and 2, Code 2011,  
11 are amended to read as follows:

12 1. Upon its own motion or upon motion of any party, a court  
13 may protect a minor, as defined in section 599.1, from trauma  
14 caused by testifying in the physical presence of the defendant  
15 where it would impair the minor's ability to communicate, by  
16 ordering that the testimony of the minor be taken in a room  
17 other than the courtroom and be televised by closed-circuit  
18 equipment for viewing in the courtroom. However, such an order  
19 shall be entered only upon a specific finding by the court that  
20 such measures are necessary to protect the minor from trauma.  
21 Only the judge, prosecuting attorney, defendant's attorney,  
22 persons necessary to operate the equipment, and any person  
23 whose presence, in the opinion of the court, would contribute  
24 to the welfare and well-being of the minor may be present in  
25 the room with the minor during the minor's testimony. The  
26 judge shall inform the minor that the defendant will not be  
27 present in the room in which the minor will be testifying  
28 but that the defendant will be viewing the minor's testimony  
29 through closed-circuit television.

30 During the minor's testimony the defendant shall remain in  
31 the courtroom and shall be allowed to communicate with the  
32 defendant's counsel in the room where the minor is testifying  
33 by an appropriate electronic method.

34 In addition, upon a finding of necessity, the court may  
35 allow the testimony of a victim or witness with a mental

1 illness, ~~mental retardation~~ an intellectual disability, or  
 2 other developmental disability to be taken as provided in this  
 3 subsection, regardless of the age of the victim or witness.

4 2. The court may, upon its own motion or upon motion of  
 5 a party, order that the testimony of a minor, as defined in  
 6 section 599.1, be taken by recorded deposition for use at  
 7 trial, pursuant to rule of criminal procedure 2.13(2)(b).  
 8 In addition to requiring that such testimony be recorded by  
 9 stenographic means, the court may on motion and hearing, and  
 10 upon a finding that the minor is unavailable as provided  
 11 in rule of evidence 5.804(a), order the videotaping of the  
 12 minor's testimony for viewing in the courtroom by the court.  
 13 The videotaping shall comply with the provisions of rule  
 14 of criminal procedure 2.13(2)(b), and shall be admissible  
 15 as evidence in the trial. In addition, upon a finding of  
 16 necessity, the court may allow the testimony of a victim  
 17 or witness with a mental illness, ~~mental retardation~~ an  
 18 intellectual disability, or other developmental disability to  
 19 be taken as provided in this subsection, regardless of the age  
 20 of the victim or witness.

## 21 DIVISION II

### 22 ADULT LIVING SERVICES

23 Sec. 144. Section 105.11, subsection 11, Code Supplement  
 24 2011, is amended to read as follows:

25 11. Prohibit an owner or operator of a health care facility  
 26 licensed pursuant to chapter 135C, assisted living center  
 27 licensed pursuant to chapter 231C, hospital licensed pursuant  
 28 to chapter 135B, adult ~~day-care~~ living services center licensed  
 29 pursuant to chapter 231D, or a retirement facility certified  
 30 pursuant to chapter 523D from performing work on the facility  
 31 or requiring such owner or operator to be licensed under this  
 32 chapter; except for projects that exceed the dollar amount  
 33 specified as the competitive bid threshold in section 26.3.

34 Sec. 145. Section 249A.12, subsection 6, paragraph a, Code  
 35 2011, is amended to read as follows:

1       a. The provisions of the home and community-based services  
2 waiver for persons with an intellectual disabilities disability  
3 shall include adult ~~day-care~~ living services, prevocational,  
4 and transportation services. Transportation shall be included  
5 as a separately payable service.

6     Sec. 146. Section 249K.5, subsection 2, paragraph b,  
7 subparagraph (4), Code 2011, is amended to read as follows:

8 (4) The service is adult ~~day care~~ living services, consumer  
9 directed attendant care, assisted living, day habilitation,  
10 home delivered meals, personal emergency response, or respite.

11       Sec. 147. Section 423.3, subsection 18, paragraph c, Code  
12 Supplement 2011, is amended to read as follows:

13 c. Rehabilitation facilities that provide accredited  
14 rehabilitation services to persons with disabilities which are  
15 accredited by the commission on accreditation of rehabilitation  
16 facilities or the accreditation council for services for  
17 persons with mental retardation and other persons with  
18 developmental disabilities and adult ~~day care~~ living services  
19 approved for reimbursement by the state department of human  
20 services.

21 EXPLANATION

22       This bill replaces the terms "mental retardation" and  
23 "mentally retarded" with the term "intellectual disability"  
24 throughout the Iowa Code.

25 The bill defines "intellectual disability" for the entire  
26 Iowa Code as a disability of children and adults who as  
27 a result of inadequately developed intelligence have a  
28 significant impairment in ability to learn or to adapt to  
29 the demands of society. This is the current definition of  
30 "mental retardation" in Code chapter 222. The bill also  
31 provides for the entire Iowa Code that if a diagnosis is  
32 required, "intellectual disability" means a diagnosis of mental  
33 retardation as defined in the diagnostic and statistical manual  
34 of mental disorders, fourth edition, published by the American  
35 psychiatric association. This language currently exists in

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1 Code section 222.60.

2     The bill replaces the term "adult day care" with "adult  
3 living services".

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